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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Ivan Peña, et al., Plaintiffs, v. Stephen Lindley, Defendant.	Case No. 2:09-CV-01185-KJM-CKD **EXHIBIT O** In Support of Plaintiffs' Motion For Summary Judgment

Respectfully October 24, 2013,

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

IVAN PEÑA, ROY VARGAS, DOÑA CROSTON, BRETT THOMAS, SECOND AMENDMENT FOUNDATION, INC. and THE CALGUNS FOUNDATION, INC., Plaintiffs, **v.** **STEPHEN LINDLEY,** Defendant.	Case No. 2:09-CV-01185-KJM-CMK **DEFENDANT STEPHEN LINDLEY'S RESPONSE TO REQUESTS FOR ADMISSION, SET ONE**

PROPOUNDING PARTY: **PLAINTIFFS, IVAN PEÑA, ROY VARGAS, DOÑA CROSTON, BRETT THOMAS, THE SECOND AMENDMENT FOUNDATION, INC., and THE CALGUNS FOUNDATION, INC.**

RESPONDING PARTY: **DEFENDANT STEPHEN LINDLEY**

SET NO.: **ONE**

RESPONSES TO REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

The Court has personal jurisdiction over all parties in the lawsuit.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Admitted, to the extent Defendant can admit jurisdiction. As the Ninth Circuit has stated: "While '[c]onsent of parties cannot give the courts of the United States jurisdiction, . . . the parties may admit the existence of facts which show jurisdiction, and the courts may act judicially upon such an admission.'" *Verzosa v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 589 F.2d 974, 977 (9th Cir. 1978) (quoting *Railway Co. v. Ramsey*, 89 U.S. [22 Wall] 322, 327).

REQUEST FOR ADMISSION NO. 2:

The Court has subject matter jurisdiction over the issues raised in this lawsuit.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Admitted, to the extent Defendant can admit jurisdiction. As the Ninth Circuit has stated: "While '[c]onsent of parties cannot give the courts of the United States jurisdiction, . . . the parties may admit the existence of facts which show jurisdiction, and the courts may act judicially upon such an admission.'" *Verzosa v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 589 F.2d 974, 977 (9th Cir. 1978) (quoting *Railway Co. v. Ramsey*, 89 U.S. [22 Wall] 322, 327). Additionally, the Court can at any time sua sponte dismiss an action for lack of subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3).

REQUEST FOR ADMISSION NO. 3:

Plaintiff properly named the Defendant in the Second Amended Complaint filed on June 10, 2013. (Doc #53).

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Defendant admits that he is properly named in the Second Amended Complaint as a defendant in his official capacity only.

REQUEST FOR ADMISSION NO. 4:

No handguns currently available for sale in the United States have microstamping technology that satisfies the requirements of California's Handgun Roster Law.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Admitted.

REQUEST FOR ADMISSION NO. 5:

No firearms manufacturer currently has any plans to offer handguns for sale in the United States that incorporate microstamping technology compliant with the requirements of California's handgun roster law.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

After reasonable inquiry, the information Defendant knows or can readily obtain is insufficient to enable him to admit or deny this request. Defendant does not have knowledge of the plans of each and every firearms manufacturer in this regard.

REQUEST FOR ADMISSION NO. 6:

No firearms manufacturer will, in the foreseeable future, offer handguns for sale in the United States that incorporate microstamping technology compliant with the requirements of California's handgun roster law.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

After reasonable inquiry, the information Defendant knows or can readily obtain is insufficient to enable him to admit or deny this request. Defendant does not have knowledge of the plans of each and every firearms manufacturer in this regard.

REQUEST FOR ADMISSION NO. 7:

Adding microstamping technology to a handgun raises the manufacturing cost of the handgun.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

After reasonable inquiry, the information Defendant knows or can readily obtain is insufficient to enable him to admit or deny this request. Defendant does not have knowledge of the handgun manufacturing costs of each and every firearms manufacturer in this regard.

REQUEST FOR ADMISSION NO. 8:

The microstamping requirement prevents Plaintiff Peña from acquiring the firearm identified in paragraph 41 of the Second Amended Complaint.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Denied.

REQUEST FOR ADMISSION NO. 9:

The microstamping requirement prevents Plaintiff Vargas from acquiring the firearm identified in paragraph 43 of the Second Amended Complaint.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Denied.

REQUEST FOR ADMISSION NO. 10:

The microstamping requirement prevents Plaintiff Croston from acquiring the firearm identified in paragraph 49 of the Second Amended Complaint.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Denied.

REQUEST FOR ADMISSION NO. 11:

The microstamping requirement prevents Plaintiff Thomas from acquiring the firearm identified in paragraph 54 of the Second Amended Complaint.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Denied.

Dated: August 19, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
PETER K. SOUTHWORTH
Supervising Deputy Attorney General

ANTHONY R. HAKL
Deputy Attorney General
Attorneys for Defendant Stephen Lindley

SA2009310413

VERIFICATION

I, Stephen Lindley, declare:

I am the Chief of the Bureau of Firearms of the California Department of Justice. I have read Defendant Stephen Lindley's Response To Requests For Admission, Set One. I know their contents and the same are true to my knowledge, information and belief.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on August 19, 2013 in Sacramento, California.

Stephen Lindley

DECLARATION OF SERVICE BY U.S. MAIL and E-MAIL

Case Name: **Ivan Pena, et al. v. Stephen Lindley**
No.: **2:09-CV-01185-KJM-CKD**

I declare:
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 19, 2013, I served the attached
1. DEFENDANT STEPHEN LINDLEY'S RESPONSE TO INTERROGATORIES, SET ONE
2. DEFENDANT STEPHEN LINDLEY'S RESPONSE TO REQUESTS FOR ADMISSION, SET ONE
by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Donald E.J. Kilmer, Jr. Attorney at Law Law Offices of Donald Kilmer, A.P.C. 1645 Willow Street, Suite 150 San Jose, CA 95125 E-Mail: don@dklawoffice.com *Co-Counsel for Plaintiffs*	Alan Gura Gura & Possessky, PLLC 101 North Columbus Street, Suite 405 Alexandria, VA 22314 E-Mail: alan@gurapossessky.com *Co-Counsel for Plaintiffs*
Jason A. Davis Davis & Associates 30021 Tomas Street, Suite 300 Rancho Santa Margarita, CA 92688 E-Mail: Jason@calgunlawyers.com *Co-Counsel for Plaintiffs*	

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 19, 2013, at Sacramento, California.

BRENDA APODACA
Declarant

Brenda Apodaca
Signature