

1 KAMALA D. HARRIS  
 Attorney General of California  
 2 TAMAR PACTHER, State Bar No. 146083  
 Supervising Deputy Attorney General  
 3 ANTHONY R. HAKL, State Bar No. 197335  
 Deputy Attorney General  
 4 1300 I Street, Suite 125  
 P.O. Box 944255  
 5 Sacramento, CA 94244-2550  
 Telephone: (916) 322-9041  
 6 Fax: (916) 324-8835  
 E-mail: Anthony.Hakl@doj.ca.gov  
 7 *Attorneys for Defendant Stephen Lindley*

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 10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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13 **IVAN PEÑA, ROY VARGAS, DOÑA**  
 14 **CROSTON, BRETT THOMAS, SECOND**  
 15 **AMENDMENT FOUNDATION, INC. and**  
 16 **THE CALGUNS FOUNDATION, INC.,**

Plaintiffs,

17 v.

18 **STEPHEN LINDLEY,**

19 Defendant.  
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Case No. 2:09-CV-01185-KJM-CKD

**STATEMENT OF UNDISPUTED FACTS  
 IN SUPPORT OF DEFENDANT'S  
 MOTION FOR SUMMARY JUDGMENT,  
 OR IN THE ALTERNATIVE SUMMARY  
 ADJUDICATION**

Date: November 22, 2013  
 Time: 10:00 a.m.  
 Dept.: Courtroom 3, 15th floor  
 Judge: The Honorable Kimberly J.  
 Mueller  
 Trial Date: None at this time  
 Action Filed: May 1, 2009

1 Defendant Stephen Lindley submits the following statement of undisputed material facts:

UNDISPUTED MATERIAL FACTS	SUPPORTING EVIDENCE
2 3 4 1. Defendant Stephen Lindley is Chief of the California Department of Justice Bureau of Firearms.	Second Am. Compl. ¶ 7; Decl. of Stephen Lindley in Supp. of Def.’s Mot. for Summ. J.
5 6 7 2. Plaintiff Second Amendment Foundation, Inc. is a Washington non-profit corporation.	Second Am. Compl. ¶ 5; Decl. of Alan Gottlieb in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
8 9 10 3. Plaintiff The Calguns Foundation, Inc. is a California non-profit corporation.	Second Am. Compl. ¶ 6; Decl. of Gene Hoffman, Jr. in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
11 12 4. Plaintiff Ivan Peña is a California resident.	Second Am. Compl. ¶ 1; Decl. of Ivan Peña in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
13 14 5. Peña wants to buy a handgun described as a “Para USA (Para Ordnance) P1345SR/ Stainless Steel .45 ACP 4.25.”	Second Am. Compl. ¶ 41; Decl. of Ivan Peña in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
15 16 17 6. A Para USA (Para Ordnance) P1345SR/ Stainless Steel .45 ACP 4.25 is not on the California Department of Justice (DOJ) roster of approved firearms.	Decl. of Stephen Lindley in Supp. of Def.’s Mot. for Summ. J., Ex. A.
18 19 20 21 22 23 24 7. The Para USA (Para Ordnance) P1345SR/ Stainless Steel .45 ACP 4.25 is a semiautomatic pistol manufactured by Para Ordnance that is chambered for .45 caliber Automatic Colt Pistol (ACP), or “.45 Auto,” ammunition. Its barrel length is 4.25 inches. The gun Peña wants is used, as opposed to new, and is currently owned by an individual in Washington, but is being offered for sale by PRK Arms, a firearms dealer in Fresno.	Pl. Ivan Peña’s Resp. to Def. Stephen Lindley’s First Set of Interrogs. at 2-3.

UNDISPUTED MATERIAL FACTS	SUPPORTING EVIDENCE
<p>8. Peña already owns “at least one fully functional handgun” that is suitable for self defense. It is “suitable for self-defense purposes in certain circumstances, but may not be suitable for self-defense purposes in other circumstances.” But Peña is “able to purchase an operable handgun that is suitable for self-defense.”</p>	<p>Pl. Ivan Peña’s Resp. to Def. Stephen Lindley’s First Set of Reqs. for Admis. at 2.</p>
<p>9. Plaintiff Roy Vargas is a California resident.</p>	<p>Second Am. Compl. ¶ 2; Decl. of Roy Vargas in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.</p>
<p>10. Vargas wants to buy a handgun described as a “Glock 21 SF with an ambidextrous magazine release.”</p>	<p>Second Am. Compl. ¶ 43; Decl. of Roy Vargas in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.</p>
<p>11. A Glock 21 SF with an ambidextrous magazine release is not the California DOJ roster of approved firearms.</p>	<p>Decl. of Stephen Lindley in Supp. of Def.’s Mot. for Summ. J., Ex. A.</p>
<p>12. The Glock 21 SF with an ambidextrous magazine is a semiautomatic pistol manufactured by Glock that uses .45 caliber ammunition. It has a 4.6-inch barrel and a short frame and is in new condition. PRK Arms in Fresno is ready to sell Vargas the desired Glock, assuming it can acquire one from a distributor.</p>	<p>Pl. Roy Vargas’s Resp. to Def. Stephen Lindley’s First Set of Interrogs. at 2-3.</p>
<p>13. Vargas already owns “at least one fully functional handgun” that is suitable for self defense. The handgun(s) he already owns “may be suitable for self-defense purposes in certain circumstances, but may not be suitable for self-defense purposes in other circumstances.” But he is “able to purchase an operable handgun that is suitable for self-defense.”</p>	<p>Pl. Roy Vargas’s Resp. to Def. Stephen Lindley’s First Set of Reqs. for Admis. at 2.</p>
<p>14. Plaintiff Doña Croston is a California resident.</p>	<p>Second Am. Compl. ¶ 3; Decl. of Doña Croston in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.</p>

UNDISPUTED MATERIAL FACTS	SUPPORTING EVIDENCE
15. Croston wants to buy a handgun described as “Springfield Armory XD-45 Tactical 5” Bi-Tone stainless steel/black handgun in .45 ACP, model number XD9623.”	Second Am. Compl. ¶ 49; Decl. of Doña Croston in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
16. A Springfield Armory XD-45 Tactical 5” Bi-Tone stainless steel/black handgun in .45 ACP, model number XD9623 is not on the California DOJ roster of approved firearms.	Decl. of Stephen Lindley in Supp. of Def.’s Mot. for Summ. J., Ex. A.
17. The Springfield Armory handgun Croston desires is a semiautomatic pistol chambered for .45 ACP. It has a 5-inch barrel and is in new condition. PRK Arms in Fresno is ready to sell her one, assuming it can acquire one from a distributor.	Pl. Doña Croston’s Resp. to Def. Stephen Lindley’s First Set of Interrogs. at 2-3.
18. Croston already owns “at least one fully functional handgun” that is suitable for self defense, depending on the circumstances. She is nonetheless “able to purchase an operable handgun that is suitable for self-defense.”	Pl. Doña Croston’s Resp. to Def. Stephen Lindley’s First Set of Reqs. for Admis. at 2.
19. Plaintiff Brett Thomas is a California resident.	Second Am. Compl. ¶ 4; Decl. of Brett Thomas in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
20. Thomas wants to buy a handgun described as a “High Standard Buntline style revolver.”	Second Am. Compl. ¶ 54; Decl. of Brett Thomas in Supp. of Pls.’ Mot. for Summ. J. filed Sept. 2, 2009.
21. A High Standard Buntline style revolver is not on the California DOJ roster of approved firearms.	Second Am. Compl. ¶ 54; Decl. of Stephen Lindley in Supp. of Def.’s Mot. for Summ. J., Ex. A.
22. The revolver is chambered for .22 long rifle ammunition. Its barrel length is 9.5 inches. It is a used gun, and is currently owned by an individual in Georgia, but is being offered for sale by PRK Arms.	Pl. Brett Thomas’s Resp. to Def. Stephen Lindley’s First Set of Interrogs. at 2-3.

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UNDISPUTED MATERIAL FACTS	SUPPORTING EVIDENCE
<p>23. Thomas already owns “at least one fully functional handgun” that is suitable for self defense, depending on the circumstances, and he is “able to purchase an operable handgun that is suitable for self-defense” irrespective of the circumstances.</p>	<p>Pl. Brett Thomas’s Resp. to Def. Stephen Lindley’s First Set of Reqs. for Admis. at 2-3.</p>
<p>24. There are currently more than 1,200 different kinds of handguns listed on California’s roster of approved handguns. Those are handguns that are available to plaintiffs for purchase. Specifically, as of October 23, 2013, there were 1,273 handguns listed on the roster and thus available for sale in California.</p>	<p>See Decl. of Stephen Lindley In Supp. of Def.’s Mot. for Summ. J. ¶ 3.</p>
<p>25. Since this lawsuit was filed, there have been approximately 1.5 million legal handgun transactions in California. Specifically, since 2009 to October 23, 2012, the Bureau of Firearms has processed 1,491,176 Dealer’s Record of Sale (DROS) transactions.</p>	<p>Decl. of Stephen Lindley In Supp. of Def.’s Mot. for Summ. J. ¶ 4.</p>

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UNDISPUTED MATERIAL FACTS	SUPPORTING EVIDENCE
<p>26. Since 2009, there have been hundreds of thousands of handgun transactions per year, and those figures are increasing. Specifically, the yearly handgun DROS transactions are as follows:</p> <ul style="list-style-type: none"> <li>• 2009: 228,368</li> <li>• 2010: 236,086</li> <li>• 2011: 293,429</li> <li>• 2012: 388,006</li> <li>• 2013 (as of October 23, 2013): 345,287</li> </ul>	<p>Decl. of Stephen Lindley In Supp. of Def.'s Mot. for Summ. J. ¶ 4.</p>

Dated: October 25, 2013

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
TAMAR PACHTER  
Supervising Deputy Attorney General

/s/ ANTHONY R. HAKL

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

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