

**EXHIBIT H**

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14  
15 **IN THE UNITED STATES DISTRICT COURT**  
16 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
17

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.  
27  
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Case No: 2:09-CV-01185-KJM-CMK

**PLAINTIFF DONA CROSTON'S  
RESPONSE TO DEFENDANT  
STEPHEN LINDLEY'S FIRST SET OF  
INTERROGATORIES**

1 PROPOUNDING PARTY: Defendant Stephen Lindley  
2 RESPONDING PARTY: Plaintiff Dona Croston  
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 45 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 To clarify, PRK Arms has identified their distributors that stock and distribute the firearm in  
19 question. PRK stands ready to sell said firearm to Plaintiff should Plaintiff qualify for one of the  
20 exemptions or should the law change.

21  
22 **INTERROGATORY NO. 2**

23 State the caliber, barrel length, serial number, condition (i.e. new or used), current owner  
24 and location (i.e. address) of the firearm identified in Paragraph 45.

25 **RESPONSE TO INTERROGATORY NO. 2**

26 **OBJECTION:** This request is so vague or ambiguous as to be burdensome or oppressive  
27 as to the meaning of "Paragraph 45," which was not defined in the request. Moreover, Plaintiff  
28 would have to speculate as to the meaning of the term "Paragraph 45" in order to properly

1 respond to this request.

2 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds:

3 Caliber: .45 Cal.

4 Barrel Length: 5 inches

5 Serial Number: To Be Determined

6 Condition (New or Used): New

7 Current Owner: To Be Determined

8 Address: To Be Determined

9  
10 **INTERROGATORY NO. 3**

11 Do you contend that the “willing seller” identified in Paragraph 45 is able to legally sell  
12 you the firearm identified in that paragraph? If so, state each fact and identify each document  
13 which you believe supports your contention.

14 **RESPONSE TO INTERROGATORY NO. 3**

15 OBJECTION: Contention interrogatories asking for each and every fact, or application of  
16 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
17 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
18 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
19 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

20 RESPONSE: Without waiving the aforementioned objections, Plaintiff responds: No.  
21 Plaintiff is not prohibited from acquiring and possessing firearms, and the “willing seller” is, to  
22 the best of Plaintiff’s knowledge, lawfully entitled to transfer firearms in accordance with United  
23 States firearm laws, including but not limited to 18 U.S.C. §921 et seq, and the regulations issued  
24 thereto, California firearm laws, including Part 6 of the California Penal Code, and the  
25 regulations issued thereto, and local laws. However, the firearm at issue became illegal for the  
26 “willing seller” to sell or transfer to Plaintiff, as a California resident, upon the passage and  
27 implementation of the Unsafe Handgun Act.  
28

1 **INTERROGATORY NO. 4**

2 Do you contend that but for the firearm identified in Paragraph 45 not being listed on  
3 California's Roster of Handguns Certified for Sale you are otherwise eligible under all applicable  
4 state and federal laws to purchase and possess that firearm? If so, state each fact and identify  
5 each document which you believe supports your contention.

6 **RESPONSE TO INTERROGATORY NO. 4**

7 **OBJECTION:** Contention interrogatories asking for each and every fact, or application of  
8 law to fact, that supports particular allegations in an opposing pleading may be held overly broad  
9 and unduly burdensome. [IPV, Inc. v. Mercantile Bank of Topeka (D KS 1998) 179 FRD 316,  
10 321 – providing “every fact” could require “laborious, time-consuming analysis, search and  
11 description of incidental, secondary, and perhaps irrelevant and trivial details.”]

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

15  
16 **INTERROGATORY NO. 5**

17 State each fact and identify each document which you believe supports your contention in  
18 Paragraph 48 that “[w]hile the identical handguns with a different finish were grandfathered,  
19 Springfield Armory could not get the XD-45 in .45 ACP and Bi-Tone finish registered given the  
20 new listing requirements.”

21 **RESPONSE TO INTERROGATORY NO. 5**

22 **RESPONSE:** The Springfield Armory XD-45 Tactical 5” Bi-Tone stainless steel/black  
23 handgun in .45 ACP (model XD9623) is substantially identical to the following firearms that are  
24 listed on the Roster of Handguns Certified for Sale: Springfield Armory XD-45 Tactical 5” .45  
25 ACP in OD Green (model XD9622), Springfield Armory XD-45 Tactical 5” .45 ACP in black  
26 (XD9621), and Springfield Armory XD-45 Tactical 5” .45 in Dark Earth (XD9162). However,  
27 the slide of the firearm is stainless steel as opposed to non-stainless steel. As such, it cannot be  
28 added pursuant to Penal Code section 32030 (a), which states a firearm shall be deemed to

1 satisfy the requirements of subdivision (a) of Section 32015 if another firearm made by the same  
2 manufacturer is already listed and the unlisted firearm differs from the listed firearm only in one  
3 or more of the following features:

4 (1) Finish, including, but not limited to, bluing, chrome-plating, oiling, or engraving.

5 (2) The material from which the grips are made.

6 (3) The shape or texture of the grips, so long as the difference in grip shape or texture  
7 does not in any way alter the dimensions, material, linkage, or functioning of the  
8 magazine well, the barrel, the chamber, or any of the components of the firing  
9 mechanism of the firearm.

10 (4) Any other purely cosmetic feature that does not in any way alter the dimensions,  
11 material, linkage, or functioning of the magazine well, the barrel, the chamber, or any of  
12 the components of the firing mechanism of the firearm.

13 Moreover, Penal Code section 32010 prohibits the submission of this firearm for testing  
14 due to the fact that it does not have an approved chamber loaded indicator. Plaintiff also cites e-  
15 mail correspondence between Frank Perdicaro and Brent George, Staff Services Analyst for the  
16 California Department of Justice, dated July 30, 2007 and August 9, 2007 in which the  
17 Department of Justice representative informed Perdicaro that "any handgun submitted for  
18 inclusion on the Roster must now include magazine disconnect and chamber loaded indicators."  
19 Plaintiff also cites correspondence between Debra Else of Springfield Army, Inc. and former  
20 Director of the Firearms Division of the Department of Justice, Randy Rossi, dated February 9,  
21 2007 and October 3, 2007.

22  
23 **INTERROGATORY NO. 6**

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

26 **RESPONSE TO INTERROGATORY NO. 6**

27 Not Applicable.  
28

1 **INTERROGATORY NO. 7**

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

4 **RESPONSE TO INTERROGATORY NO. 7**

5 Not Applicable.  
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7 **INTERROGATORY NO. 8**

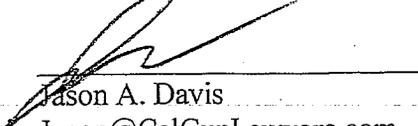
8 If in response to Request for Admission 3 you deny that you are able to obtain a  
9 Springfield Armory XD-45 Tactical 5" Bi-Tone stainless steel/black handgun in .45 ACP, model  
10 number XD9623, through a private-party transfer under California Penal Code section 32110(a),  
11 state each fact on which you base your denial.

12 **RESPONSE TO INTERROGATORY NO. 8**

13 **RESPONSE:** Plaintiff is unaware of any private parties with a California Driver License,  
14 California Identification Card or Military identification card who possess such a firearm in an  
15 unaltered factory manufactured condition. Nor is Plaintiff aware of any private parties with a  
16 California Driver License, California Identification Card or Military identification card who are  
17 willing to sell said firearm in an unaltered factory manufactured condition. And, such a firearm  
18 is not on the list of handguns approved for a California licensed dealer direct sale in California.

19 Date: December 11, 2012

20 WITH RESPECT TO OBJECTIONS ONLY  
21 Davis & Associates

22   
23 Jason A. Davis  
24 Jason@CalGunLawyers.com  
25 Attorneys for plaintiffs  
26  
27  
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VERIFICATION

1 DONA CROSTON declares:  
2

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

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

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14 DONA CROSTON  
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DECLARATION OF SERVICE BY U.S. MAIL

Court: U.S. District Court, Eastern District of California  
Case Name: *Pena v. Cid*  
Case No: 2:09-CV-01185-KJM-CMK

I declare:

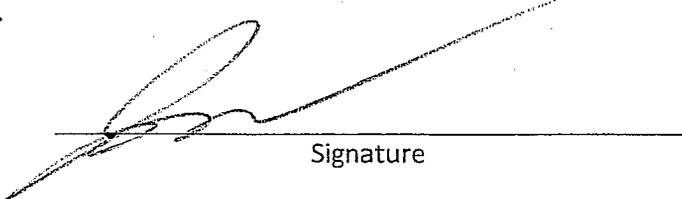
I am employed in the Law Office of Davis & Associates, which is the office of a member of the California State Bar, at which member's discretion this service was made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at Davis & Associates for collection and processing of correspondence for mailing with the U.S. Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at Davis & Associates is deposited with the U.S. Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 11, 2012, I served the attached **[1] PLAINTIFF BRETT THOMAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSION [2] PLAINTIFF BRETT THOMAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES [3] PLAINTIFF ROY VARGAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSIONS [4] PLAINTIFF ROY VARGAS'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES [5] PLAINTIFF DONA CROSTON'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSIONS [6] PLAINTIFF DONA CROSTON'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES [7] PLAINTIFF IVAN PENA'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF REQUESTS FOR ADMISSIONS [8] PLAINTIFF IVAN PENA'S RESPONSE TO DEFENDANT STEPHEN LINDLEY'S FIRST SET OF INTERROGATORIES**, by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at Davis & Associates at 27201 Puerta Real, Suite 300, Mission Viejo, CA 92691, addressed as follows:

KAMALA D. HARRIS  
Attorney General of California  
Peter K. Southworth  
Supervising Deputy Attorney General  
Anthony R. Hakl  
Deputy Attorney General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

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

\_\_\_\_\_  
Jason Davis  
Declarant

  
\_\_\_\_\_  
Signature