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 10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 EASTERN DISTRICT OF CALIFORNIA
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13 **IVAN PEÑA, ROY VARGAS, DOÑA**
CROSTON, BRETT THOMAS, SECOND
 14 **AMENDMENT FOUNDATION, INC. and**
THE CALGUNS FOUNDATION, INC.,

15 Plaintiffs,
 16

17 v.

18 **STEPHEN LINDLEY,**

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

DECLARATION OF LESLIE
MCGOVERN IN SUPPORT OF
DEFENDANT STEPHEN LINDLEY'S
OPPOSITION TO PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT

Date: December 16, 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

DECLARATION OF LESLIE MCGOVERN

I, Leslie McGovern, declare as follows:

1. I am an Associate Governmental Program Analyst employed by the California Department of Justice, Bureau of Firearms, in Sacramento, California. I make this declaration in support of the Opposition to Plaintiffs' Motion for Summary Judgment by Defendant Stephen Lindley. I have personal knowledge of the facts stated in this declaration, and if called as a witness, I could and would competently testify to them.

2. I have been working in the Bureau of Firearms since 2001. Since approximately September of 2008, one of my employment responsibilities has been the day-to-day maintenance of the Roster of Handguns Certified for Sale ("Roster").

3. My employment duties include processing requests to add firearms to the Roster. If the Department approves a firearm, it is my job to add the name of the firearm to the Roster. I am also responsible for processing the renewal of names of firearms on the Roster, and for removing the names of firearms from the Roster. I also maintain the files and paperwork related to these activities.

4. In connection with these duties, I regularly communicate with firearms manufacturers. It is a manufacturer's decision whether to submit a given handgun model for inclusion on the Roster. I also regularly communicate with the laboratories that conduct the required testing of firearms being considered for listing on the Roster, and other Bureau of Firearms employees.

5. Regarding the Springfield Armory XD-45 Tactical 5" Bi-Tone Stainless steel/black handgun referenced in plaintiffs' complaint, the Department's files show that the model of that handgun originally tested and listed was the XD9621 – Black. After that initial listing, the manufacturer submitted two variations of the handgun (XD9622 – OD Green and XD9162 – Dark Earth) to be included on the Roster as "similar." The Department approved those handguns and listed them on the Roster. According to our records, the manufacturer has never submitted the XD9623 – Bi-Tone to the Department for inclusion on the Roster, either to be included as a "similar" or to be tested in its own right.

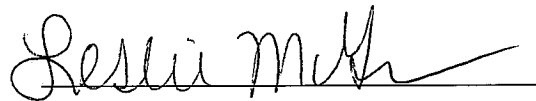
1 6. My use of the word "similar" in this declaration is a reference to California Penal Code
2 section 32030, which allows a firearm to be deemed to satisfy the Roster's testing requirements
3 due to its similarity to an already tested model.

4 7. Plaintiffs' complaint also references a High Standard Buntline style revolver. According
5 to the Department's records, no manufacturer has ever submitted a High Standard Buntline style
6 revolver for inclusion on the Roster.

7 8. Plaintiffs' complaint also references a Para USA (Para Ordnance) P1345SR/Stainless
8 Steel .45 ACP 4.25". According to the Department's records, the Para USA model P1345SR was
9 originally listed on the Roster on January 1, 2001. It was removed on December 31, 2005. I was
10 not in my current position in 2005 and have not been able to locate any documentation as to why
11 the Para USA model P1345SR was not renewed. Although I cannot be one hundred percent
12 certain, this lack of documentation suggests to me that the handgun fell off the Roster due to the
13 manufacturer's failure to pay the required fee to renew the listing.

14 9. Plaintiffs' complaint also references a Glock 21 SF with an ambidextrous magazine
15 release. According to our files, in November of 2006 Glock sent an e-mail to the Department
16 requesting approval to add an ambidextrous magazine release to a number of Glock models
17 already on the Roster. In January of 2007, the Department sent a letter to Glock advising that it
18 did not have the authority to exempt the handguns from the testing requirements because the
19 proposed physical changes to the working parts of the firearm did not appear to fit within the
20 definition of what is an acceptable "similar." Therefore, any re-designed handgun would have to
21 be laboratory tested. According to our records, the manufacturer has never submitted a Glock 21
22 SF with ambidextrous release for inclusion on the Roster.

23 I declare under penalty of perjury under the laws of the State of California and the United
24 States of America that the foregoing is true and correct of my own personal knowledge, and that
25 this declaration is executed in Sacramento, California, this 2nd day of December __, 2013.

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28 LESLIE MCGOVERN