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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION**

JEFF SILVESTER, MICHAEL POESCHL,  
BRANDON COMBS, THE CALGUNS  
FOUNDATION, INC., a non-profit  
organization, and THE SECOND  
AMENDMENT FOUNDATION, INC., a  
non-profit organization,

Plaintiffs,

vs.

KAMALA HARRIS, Attorney General of  
California (in her official capacity), and  
DOES 1 to 20,

Defendant.

Case No: 1:11-cv-02137-AWI-SKO

**PLAINTIFF MICHAEL POESCHL'S  
RESPONSE TO DEFENDANT  
KAMALA D. HARRIS'S FIRST SET OF  
INTERROGATORIES**

Exhibit B

1 PROUPOUNDING PARTY: Defendant Kamala D. Harris  
2 RESPONDING PARTY: Plaintiff Michael Poeschl  
3 SET NUMBER: One (1)  
4

5 **RESPONSES TO INTERROGATORIES**

6 **INTERROGATORY NO. 1**

7 State your full name, date of birth, home address, and Social Security number.

8 **RESPONSE TO INTERROGATORY NO. 1**

9 **OBJECTION:** This interrogatory counts as four separate and distinct interrogatories.  
10 Moreover, this request is objectionable as it is not calculated to lead to the discovery of  
11 admissible evidence. This request seeks privileged information, including Plaintiff's Social  
12 Security number and birth date. (*See Fed. R. Civ. Proc. §5.2.*)

13 **RESPONSE:** Without waiving the above stated objections, Plaintiff responds as follows:  
14 Michael Gardner Poeschl; 1974; 27163 El Moro, Mission Viejo, CA 92691; the last four digits  
15 of my Social Security number are 1039.  
16

17 **INTERROGATORY NO. 2**

18 How many firearms are usually kept at your home?

19 **RESPONSE TO INTERROGATORY NO. 2**

20 **OBJECTION:** This request is not reasonably calculated to seek the discovery of  
21 admissible evidence. Moreover, this request seeks information that is irrelevant to the matter at  
22 hand. This request seeks privileged information as it relates to the number of firearms kept at  
23 Plaintiff's home. (*See U.S. Const. amends I, IV, V, XIV; Cal. Const. art I, §1; and 18 U.S.C.*  
24 *926(a)*, which states: "No such rule or regulation prescribed [by the Attorney General] after the  
25 date of the enactment of the Firearms Owners Protection Act may require that records required to  
26 be maintained under this chapter or any portion of the contents of such records, be recorded at or  
27 transferred to a facility owned, managed, or controlled by the United States or any State or any  
28 political subdivision thereof, nor that any system of registration of firearms, firearms owners, or

1 firearms transactions or disposition be established. Nothing in this section expands or restricts  
2 the Secretary's authority to inquire into the disposition of any firearm in the course of a criminal  
3 investigation." Thus, there is a clear intent to secure gun owners' privacy as it relates to their  
4 firearm ownership. The civil action at issue herein cannot be used to subvert those privacy  
5 rights.

6         **RESPONSE:** Without waiving the above stated objections, Plaintiff responds by stating  
7 that, in general, I keep at least one firearm within the home.  
8

9 **INTERROGATORY NO. 3**

10         How many firearms suitable for self-defense are usually kept at your home?

11 **RESPONSE TO INTERROGATORY NO. 3**

12         **OBJECTION:** This request is not reasonably calculated to seek the discovery of  
13 admissible evidence. This request is also so vague or ambiguous as to be burdensome or  
14 oppressive as to the meaning of "suitable for self-defense." Moreover, Plaintiff would have to  
15 speculate as to the meaning of the phrase "suitable for self-defense." Firearms are tools. While  
16 one firearm may be suitable for self-defense in one scenario, it may not be suitable for self-  
17 defense in another scenario. As such, the term "suitable for self-defense" is too vague and  
18 ambiguous to properly respond to. Moreover, this request seeks information that is irrelevant to  
19 the matter at hand. This request seeks privileged information as it relates to the number of  
20 firearms kept at Plaintiff's home. (See U.S. Const. amends I, IV, V, XIV; Cal. Const. art I, §1;  
21 and 18 U.S.C. 926(a), which states: "No such rule or regulation prescribed [by the Attorney  
22 General] after the date of the enactment of the Firearms Owners Protection Act may require that  
23 records required to be maintained under this chapter or any portion of the contents of such  
24 records, be recorded at or transferred to a facility owned, managed, or controlled by the United  
25 States or any State or any political subdivision thereof, nor that any system of registration of  
26 firearms, firearms owners, or firearms transactions or disposition be established. Nothing in this  
27 section expands or restricts the Secretary's authority to inquire into the disposition of any firearm  
28 in the course of a criminal investigation." Thus, there is a clear intent to secure gun owners'

1 In fact, the California Department of Justice had determined alternative methods that  
2 eliminate delays upon law abiding firearm owners while ensuring public safety as early as 1991.  
3 In its AB 497 Alternative Feasibility Studies: Report of Findings (1991), the Department of  
4 Justice identified multiple methods of performing proper background checks such that the  
5 persons in prohibited categories would not be allowed to purchase a firearm from a licensed  
6 California firearm dealer while imposing minimal infringement on gun owners' rights to  
7 purchase and possess firearms. As I am a verifiable law-abiding firearm owner, there is no  
8 justifiable reason to delay my acquisition of a firearm I already own.

9 If I were required to wait 5 days between purchasing a firearm and taking delivery of a  
10 firearm, I would thereby be deprived of the use, custody, and control of my personal property.  
11 The delay would also deny me the ability to defend self, family, and home with said firearm that  
12 I already own; the hypothetical waiting period mandates a brief window of 25 days from which I  
13 must return to obtain physical possession of property that I already own, causing an additional  
14 increased 5 day delay and added expenses of Dealer Record of Sale fees, storage fees, and  
15 transportation fees when I am unavailable to take physical possession of the firearm within the  
16 25 day window; causes increased travel expenses upon firearm purchases coinciding with  
17 distance from my home to the licensed firearm dealer premises due to the requirement that I must  
18 make a second trip to receive custody of the firearm purchased; limits my out-of-town purchases  
19 and gun show purchases; and limits the market of firearms available to areas I am willing to  
20 travel to twice during a period of at least 5 days and at most 30 days; causes added burden and  
21 expense of locating and paying another more local dealer who may be willing, but is not  
22 statutorily obligated, to process a firearms transfer originating at a competitor's licensed firearm  
23 dealer; and causes me to lose the opportunity cost of the time spent on the second trip to receive  
24 a firearm I already own.

25  
26 **INTERROGATORY NO. 16**

27 Describe in full and complete detail all expenses that you have incurred to acquire  
28 firearms because of California Penal Code section 26815(a) and its "waiting period" (between

1 purchase and delivery of a firearm).

2 **RESPONSE TO INTERROGATORY NO. 16**

3       RESPONSE: I have lost the opportunity costs to engage in business and other activities  
4 during the time it took me for each and every second trip to the licensed firearms dealer to take  
5 possession, custody, and control of each firearm I own.

6       I have lost the opportunity to purchase firearms due to an inability to make a second trip.

7       I have incurred expenses, including shipping expenses, additional dealer transfer fees,  
8 increased firearm prices due to lack of local competition, additional fuel costs, wear and tear on  
9 my vehicle[s] necessary for a return trip to the licensed dealer to receive my firearm. On  
10 information and belief, I have spent approximately \$1,500.00 on such expenses.

11       I have incurred additional costs of having to resubmit a Dealer Record of Sale application  
12 due to scheduling conflicts preventing me from returning to the store to receive my firearm  
13 within the temporary window of availability. Upon information and belief, I have spent  
14 approximately \$100.00 on resubmission fees.

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16 **INTERROGATORY NO. 17**

17       Describe in full and complete detail all expenses that you have incurred to acquire  
18 firearms because of California Penal Code section 27540 and its "waiting period" (between  
19 purchase and delivery of a firearm).

20 **RESPONSE TO INTERROGATORY NO. 17**

21       RESPONSE: I have lost the opportunity costs to engage in business and other activities  
22 during the time it took me for each and every second trip to the licensed firearms dealer to take  
23 possession, custody, and control of each firearm I own.

24       I have lost the opportunity to purchase firearms due to an inability to make a second trip.

25       I have incurred expenses, including shipping expenses, additional dealer transfer fees,  
26 increased firearm prices due to lack of local competition, additional fuel costs, wear and tear on  
27 my vehicle[s] necessary for a return trip to the licensed dealer to receive my firearm. On  
28 information and belief, I have spent approximately \$1,500.00 on such expenses.

1 I have incurred additional costs of having to resubmit a Dealer Record of Sale application  
2 due to scheduling conflicts preventing me from returning to the store to receive my firearm  
3 within the temporary window of availability. Upon information and belief, I have spent  
4 approximately \$100.00 on resubmission fees.  
5

6 **INTERROGATORY NO. 18**

7 State the longest distance you have traveled, in the last 10 years, from your home to a  
8 licensed firearms retailer to acquire a firearm.

9 **RESPONSE TO INTERROGATORY NO. 18**

10 RESPONSE: Approximately 764 miles.

11 **INTERROGATORY NO. 19**

12 State the distances from your home, in miles, of the three licensed firearms dealers that  
13 are presently closest to your home.

14 **RESPONSE TO INTERROGATORY NO. 19**

15 OBJECTION: This request is so vague or ambiguous as to be burdensome or oppressive  
16 as to the meaning of "licensed firearm dealers." Moreover, Plaintiff would have to speculate as  
17 to the meaning of the phrase "licensed firearm dealers." This interrogatory provides no definition  
18 of what "licenses" or which category of "firearm dealers" this interrogatory refers to. Neither  
19 Department of Justice nor any other entity publishes a list or makes a list available of persons  
20 who are licensed under California law to transfer firearms – therefore it is impossible for me to  
21 know with any certainty who the three licensed firearm dealers that are presently closest to my  
22 home.

23 RESPONSE: Without waiving the above referenced objection, Plaintiff responds: To the  
24 best of my knowledge, and on information and belief, the three firearm retailers open to the  
25 public that are presently closest to my home are: PRK Arms, Spencer's Firearms, and Herb  
26 Bauer's Sporting Goods. The distances from these locations to my home are unknown.

27 **INTERROGATORY NO. 20**

28 State the name and World Wide Web address of each Internet seller of firearms from

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**VERIFICATION**

MICHAEL POESCHL declares:

1. I am a plaintiff in the above-captioned action;
2. I have read the foregoing "PLAINTIFF MICHAEL POESCHL'S RESPONSE TO DEFENDANT KAMALA D. HARRIS'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 January 28, 2013, at Mission Viejo, California.



MICHAEL POESCHL