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

Ivan Peña, et al.,) Case No. 2:09-CV-01185-KJM-CKD
Plaintiffs,)
v.)
Stephen Lindley,)
Defendant.)
_____)

DECLARATION OF JAMES DEBNEY

I, James Debney, am competent to state, and to declare the following based on my personal knowledge:

1. I am the President and Chief Executive Officer of Smith & Wesson Corp. (“Smith & Wesson”), one of the nation’s leading firearms manufacturers. Smith & Wesson is a U.S.-based leader in firearm manufacturing and design, delivering a broad portfolio of quality firearms, related products and training to the global military, law enforcement, and consumer markets.

2. Semi-automatic handguns are arms of the kind in common use for traditional lawful purposes throughout the United States, and have been for quite some time. Last year,

1 Smith & Wesson sold hundreds of thousands of semi-automatic handguns for delivery to
2 responsible, law-abiding Americans.

3 3. The overwhelming majority of the semi-automatic handguns we sell today do not
4 have chamber-loaded indicators and/or magazine disconnect devices. For example, none of our
5 full size or compact M&P® pistols is equipped with them.

6 4. Like virtually all manufacturers, Smith & Wesson constantly improves its
7 products and manufacturing processes to take advantage of innovations, to meet ever-changing
8 consumer tastes and demands, and to remain competitive. Under the CA DOJ's interpretation
9 and implementation of the California statute, any modification to a semi-automatic handgun,
10 other than a purely cosmetic one, requires that the model be resubmitted for roster testing in
11 order to be offered for sale in California, even if the change has no negative impact on the
12 function or performance of the handgun. As of May 17, 2013, any semi-automatic handgun
13 submitted for roster testing must also comply with California's microstamping regime.

14 5. Handguns, once listed, may remain grandfathered on the roster only if there are no
15 changes whatsoever to the handgun, excepting purely cosmetic changes. As a practical matter, it
16 would be extremely difficult to support one set of handgun models whose designs are frozen in
17 time for one state—even a large state like California – while continuing to innovate and improve
18 products for the rest of the country. To attempt to do so would increase a manufacturer's costs
19 and reduce its manufacturing efficiencies, creating an undue economic burden for the
20 manufacturer. It would, I believe, negatively impact a manufacturer's competitiveness in the
21 broader United States market.

22 6. Smith & Wesson does not believe it is possible currently to comply with
23 California's microstamping regulations. Quite simply, the state law requires the technology to
24 perform at a level that it cannot. Moreover, it requires Smith & Wesson to implement the
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1 technology in a way and on a scale that it practically cannot and, to our knowledge, in a way that
2 never has been achieved by any firearm manufacturer. As it appears infeasible to comply with the
3 CA DOJ microstamping regulations, Smith & Wesson does not have the ability or plans to
4 incorporate microstamping in its semi-automatic handguns, and cannot forecast when, if ever, it
5 would be able to do so.
6

7 7. Accordingly, as a result of the microstamping requirement, Smith & Wesson is
8 losing its ability to sell many of its semi-automatic handguns in California, as its handguns are
9 forced off the roster. In fact, unless California changes its position, all of our popular M&P®
10 pistols other than the M&P® Shield™, will fall off the roster by August, 2014 due to
11 performance enhancements and other improvements we have made to those firearms. Most of
12 these M&P® pistols will be forced off the roster by the end of January, 2014. Indeed, all other
13 Smith & Wesson semi-automatic pistols are at risk of eventually falling off the roster, as we
14 continue to innovate and evolve these models.
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17 8. Smith & Wesson does currently produce California-compliant versions of its
18 M&P® Shield™ and SDVE™ pistols, which were tested and certified for sale in California just
19 before microstamping went into effect and which are expected to remain on the roster as long as
20 we do not make any changes to them. The company does not plan to make any changes to these
21 models, for this reason. Over time however, that may be unrealistic, as we continue to innovate
22 to meet consumer tastes and demands, and to remain competitive.
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24 9. Finally, as a result of the microstamping requirements, Smith & Wesson has lost
25 its ability to sell to traditional consumers in California, any new semi-automatic handgun model
26 introduced after May 17, 2013.
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1 10. Upon information and belief, since California's microstamping requirement went
2 into effect, no semi-automatic handgun model submitted for testing by any manufacturer has
3 been certified for sale in California, and added to the roster.
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5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed this the 27th day of January, 2014.

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Peter James Debney