

American Knife & Tool Institute

Executive Committee Meeting (BOR & Advisory)

Teleconference Call Monday, July 9, 2007 2:00 p.m. Eastern

The Executive Committee Teleconference meeting of the American Knife and Tool Institute on Monday, July 9, 2007 was called to order at 1:00 p.m. EDT by AKTI President Goldie Russell (A.G. Russell). Other Regents present, AKTI Vice President Jeff Goddard (Kershaw), A.G. Russell (A.G. Russell Knives), Gil Hibben (Knifemakers Guild). Advisory members present: Spencer Fraser (SOG). Others present: Jan Billeb, Executive Director; David Kowalski, Communications Coordinator; Dan Lawson, Attorney; Chris Micheli, CA Lobbyist; Jon Berger, CA Appellate Attorney. Regents absent: CJ Buck (Buck Knives), Jim Warick (Gerber). Les de Asis (Benchmade), was also absent, but had sent a written proxy to Jan Billeb prior to call.

The subject of the teleconference: **Appellate Case in California** and its potential impact on 653k switchblade statute that creates an exemption for one-hand openers.

Jon Berger reviewed the appellate case, indicating that while there were several procedural errors at the trial level, the appellate court could, in fact, decide they were “honest mistakes” and proceed to an opinion on broader legal issues, such as the exemption language for one-hand openers in statute 653k. He also noted that very few such cases ever get to the appellate level so we could wait a long time for this opportunity. This case involved a Gerber Paraframe II one-hand opener which, through both prosecution and defense error, was never explicitly introduced into evidence. During trial, there were several attempts to flick open the knife, including a “private” one in chambers by the judge. A. G. Russell noted any policeman in good condition can flick open any knife with some practice. Crucial issue is what is meant by a detent or other mechanism to keep the blade in place when it’s not in a lock-back position. Chris Micheli explained the process for changes, interaction, and logic behind changes made to 653k nearly six years ago.

Discussion followed on the probability or likelihood of the court striking down the revisions of 653k. According to Micheli, CA law enforcement would now be pleased to strike the exception. Micheli’s position is that AKTI cannot leave itself exposed to a guess about what the appellate court might decide. We need to defend the exemption to the limit because if it were modified judicially, it would be virtually impossible to reinstate it legislatively.

David Kowalski asked about the cost involved. Micheli’s proposal is to bill AKTI at a discounted hourly rate of \$250/hour and he provided an estimate of \$3-4,000 to develop an Amicus brief.

Micheli also emphasized the importance of having an appellate decision that further clarifies and/or restates the essence of 653k so that lower courts would get further guidance. While we are correct to protect 653k, this could an opportunity for the appellate court to reinforce it, if they elect to take on the legal issues.

Spencer Fraser asked the factual question of how it was known if the detent was worn. Defendant claims knife was not modified. Micheli noted that it is irrelevant if the detent was worn or not – as long as the knife has a detent the exception to 653k takes place.

2:35 p.m. Chris Micheli and Jon Berger dismissed from meeting. The Executive Committee then discussed other matters before returning to the CA case (resolution follows):

Goldie Russell noted that their position is to pursue and support the Amicus brief. Jeff Goddard felt the financial position of AKTI certainly allows that. Gil Hibben expressed the opinion that AKTI should proceed. Spencer Fraser agreed that the risk was too great to do nothing. David Kowalski suggested that the motion might be to cap the amount spent on the Amicus brief. Goldie moved, Goddard second, cap at \$4,000. Les de Asis had sent an earlier proxy indicating he would support spending up to \$5,000 on the brief. Motion approved unanimously.

NY Federal Case - David Kowalski received information from a New York attorney regarding a possible Amicus brief in a case charged in federal court under the NY gravity knife statute that provides a knife is a gravity knife if it can be opened with centrifugal force. A defendant purchased a Husky utility knife at Home Depot (retail \$7.99) that was imported by Great Neck of New York but actually produced by Gray Star of China. This is basically used as a “construction” knife and has a fold-out blade that accepts an industrial-strength razor blade. According to one of Kowalski’s sources, Home Depot sells 80,000 per week nationally. Lowe’s sells its similar Kobalt knife. Another U.S. company makes a version that sells 150,000 per year. Gerber also sells its models of the same type of knife. The federal judge, when he realized how potentially common and widely used this knife was, decided he wanted as much detail as possible about its NY sales.

That's why AKTI was contacted; we are getting more frequent calls as the knife industry authority and information source. A. G. Russell indicated these companies are purchasing cheap knives from outside the U.S. so they should deal with the consequences. Lawson noted that New York is like a "black hole" and that there may be nothing that AKTI could do to make a difference. It was suggested that David Kowalski give the New York attorney a minimum amount of assistance. Dan Lawson offered the potential services of an attorney in his office who writes Amicus briefs for the NRA, among others.

Industry Employee Survey - David Kowalski reported that he has received direct responses from 32 companies to date on the Industry Employee Survey. More than 3100 direct employees have been documented. He will issue a preliminary report and another call for information. His point was that it is getting more authoritative.

South Carolina – Dan Lawson contacted a lobbyist and received a proposal and a curriculum vitae which he'll forward to David Kowalski. Costs were not discussed. This lobbyist recommendation is from a colleague of Dan Lawson's.

Goldie Russell moved to adjourn, seconded by Jeff Goddard. Meeting adjourned 2:55 p.m. Eastern.

Respectfully submitted,

Jan Billeb
AKTI Executive Director