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

DANIEL J. BERNSTEIN,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF COMMERCE, et al.,

Defendants.

C 95-00582 MHP

**PLAINTIFF'S
EVIDENTIARY OBJECTIONS
TO SECOND KRITZER DECLARATION
AND MOTION TO STRIKE**

Date: October 7, 2002

Time: 2:00 p.m.

Place: Courtroom 15, 18th Floor

Plaintiff Daniel J. Bernstein submits the following evidentiary objections to the Second Declaration of Bernard Kritzer filed by the Defendants on August 2, 2002. Plaintiff moves to strike the inadmissible portions of that declaration.

¶6 (re SPRAY), ¶8 (re NISTP224): Plaintiff objects to, and moves to strike, each of these paragraphs under Civil L.R. 7-5(b) as argumentative and conclusory; under Federal Rule of Evidence 403 as confusing; under Rule 602 as outside the declarant's personal knowledge; under Rule 701 as an inference not based on witness perception; under Rule 701 as an inference based on specialized knowledge within the scope of Rule 702; and under Rule 802 as inadmissible hearsay. Evaluation of these paragraphs is hindered by severe ambiguities in the declarant's language; it is not clear what facts are being alleged by the declarant. Plaintiff would have no

1 evidentiary objection to the declarant stating “BIS hereby designates SPRAY and nistp224 as
2 being outside 5D002,” but it is not clear whether that is the intent of these paragraphs.

3 ¶10: Plaintiff objects to, and moves to strike, this paragraph under Civil L.R. 7-5(b)
4 as argumentative and conclusory, to the extent that the paragraph purports to state the legal
5 effect of EAR.

6 Plaintiff reserves objections to the parenthetical comment in ¶10; he presumes that
7 “NISTP224 described in paragraph 5” was an editing error, and that the declarant is actually
8 referring to SPRAY in paragraph 6.

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DANIEL J. BERNSTEIN
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