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7 Attorneys for Plaintiffs

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION**

12 STEVEN RUPP; STEVEN DEMBER;
13 CHERYL JOHNSON; MICHAEL
14 JONES; CHRISTOPHER SEIFERT;
15 ALFONSO VALENCIA; TROY WILLIS;
and CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,

16 Plaintiffs,

17 vs.

18 XAVIER BECERRA, in his official
19 capacity as Attorney General of the State
of California; and DOES 1-10,

20 Defendants.
21

CASE NO.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 Plaintiffs, Rupp, Dember, Johnson, Jones, Seifert, Valencia, Willis, and the
2 California Rifle & Pistol Association, Incorporated, through their counsel, bring this
3 action against Defendant Attorney General Xavier Becerra, in his official capacity,
4 and make the following allegations:

5 INTRODUCTION

6 1. Plaintiffs are law-abiding California residents who seek to protect
7 themselves and their families with rifles owned and in common use by millions of
8 Americans for self-defense. The Second Amendment squarely protects Plaintiffs’
9 right to keep and bear arms “typically possessed by law-abiding citizens for lawful
10 purposes.” *District of Columbia v. Heller*, 554 U.S. 570, 624-25 (2008). And
11 California plainly infringes that right by completely barring Plaintiffs from acquiring,
12 transferring, or possessing commonly owned rifles that it pejoratively labels “assault
13 weapons”—a non-technical, political term of ever-changing definition and scope
14 with no connection to the public safety interests that the law purports to serve.¹

15 2. California’s sweeping Assault Weapon Control Act (“the AWCA”)²
16 prohibits the most popular rifle models in the country, which are lawfully owned and
17 safely operated by millions of Americans in all but a few states. To achieve such a
18 broad ban, California classifies as “assault weapons” dozens of specific, popular
19 rifles by their make and model along with any other rifle having certain common
20 features that are the hallmarks of the most popular rifle models. None of these
21 features that qualify a rifle for the State’s prohibition have anything to do with rate of
22 fire, ammunition capacity, power, or anything else linked to the rifle’s potential to be

23
24 ¹ “ ‘Prior to 1989, the term “assault weapon” did not exist in the lexicon of
25 firearms. It is a political term, developed by anti-gun publicists to expand the
26 category of “assault rifles” so as to allow an attack on as many additional firearms as
27 possible on the basis of undefined “evil” appearance.’ ” *Stenberg v. Carhart*, 530
28 U.S. 914, 1001 n.16 (2000) (Thomas, J., dissenting) (quoting Bruce H. Kobayashi &
Joseph E. Olson, *In Re 101 California Street: A Legal and Economic Analysis of
Strict Liability for the Manufacture and Sale of “Assault Weapons”*, 8 Stan. L. &
Pol’y Rev. 41, 43 (1997)).

² Part 6, Title 4, Division 10, Chapter 2 of the California Penal Code,
commencing with section 30500.

1 exploited for crime. To the contrary, their purpose is to promote ergonomic comfort,
2 accuracy, and safe handling—that is, to make the rifles safer and more effective for
3 the core lawful purpose of self-defense. In sum, California’s prohibition of rifles “in
4 common use ... for lawful purposes like self-defense” is based on distinctions that
5 have nothing to do with public safety or any other valid government objective. *Id.* at
6 624. That is a policy choice the Second Amendment takes “off the table.” *Id.* at 636.

7 3. The Second Amendment is not the only constitutional provision
8 implicated by the State’s ban. By retroactively criminalizing firearms that were
9 lawful when purchased based on arbitrarily selected features—many of which
10 actually make firearms that are commonly owned and used *safer* and more effective
11 for self-defense—the AWCA violates the Due Process Clause. *See, e.g., Lingle v.*
12 *Chevron U.S.A. Inc.*, 544 U.S. 528, 541 (2005); *id.* at 548-49 (Kennedy, J.,
13 concurring). And by severely constraining the right of firearm owners to transfer
14 lawfully acquired firearms, and eliminating entirely the right of firearms owners “to
15 pass on” their lawfully acquired property to their family members or heirs— “one of
16 the most essential sticks in the bundle of” property rights, which has “been part of
17 the Anglo-American legal system since feudal times”—without compensation, the
18 AWCA violates the Takings Clause. *Hodel v. Irving*, 481 U.S. 704, 716 (1987);
19 *Horne v. Dep’t of Agric.*, 135 S. Ct. 2419, 2425, 2427 (2015).

20 4. Desiring to acquire, possess, use, and/or transfer these constitutionally
21 protected firearms for lawful purposes including self-defense, but justifiably fearing
22 prosecution if they do, Plaintiffs respectfully request this Court: (1) declare that
23 California Penal Code sections 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F),
24 30515(a)(3), 30520, 30600, 30605, 30925, and 30945, along with California Code of
25 Regulations, title 11, section 5499 (“11 C.C.R. 5499”), infringe Plaintiffs’
26 constitutional rights; and (2) permanently enjoin Defendants from enforcing each of
27 those sections to the extent they prevent law-abiding Californians, like Plaintiffs,
28 from acquiring, possessing, using or transferring constitutionally protected arms.

FACTUAL BACKGROUND

1
2 5. This case involves California’s ban on certain commonly owned
3 semiautomatic, centerfire rifles with detachable magazines. “Semiautomatic” means
4 the rifle discharges a single projectile with each pull of the trigger, no matter how
5 long the trigger is depressed.³ “Centerfire” means the rifle uses “centerfire” (as
6 opposed to “rimfire”) ammunition.⁴ And having a “detachable magazine” means that
7 the rifle is fed ammunition via a magazine that is not fixed to the rifle.

8 6. There is nothing new or unusually dangerous about semiautomatic,
9 centerfire rifles with detachable magazines. Such rifles have been in safe and
10 effective use by civilians in this country—including in California—for over a
11 century. As a general matter, they remain lawful in all states today.

12 7. Many semiautomatic, centerfire rifles with detachable magazines come
13 standard with—or can be modified with widely available aftermarket products to
14 include—particular features designed to promote comfort, safe handling, and
15 accuracy. As relevant to this case, those features include a “pistol grip” (including a
16 “forward pistol grip”), a “thumbhole stock,” a “flash suppressor,” and an adjustable
17 (“telescoping”) stock. *See* Cal. Penal Code § 30515.

18 8. A “pistol grip” allows for a “grasp in which the web of the trigger hand
19 (between the thumb and index finger) can be placed below the top of the exposed

20
21 ³ By contrast, fully automatic weapons—otherwise known as a “machine
22 guns”—are capable of discharging rounds as long as the trigger is depressed. *See*
23 *Staples v. United States*, 511 U.S. 600, 602 n.1 (1994). Fully automatic “machine
24 guns” are generally banned in California by Penal Code section 32625, a section
25 Plaintiffs do not challenge here.

26 ⁴ Ammunition consists of loaded cartridges that have four parts: a primer, case,
27 propellant (gun powder) and a projectile (bullet or shot). *See* Cal. Penal Code §
28 16150. When a firing pin strikes the priming compound of a cartridge placed in a
gun’s chamber, the resulting spark ignites the powder charge and the resulting gas
drives the bullet out of the case and then out of the barrel. In a “centerfire” cartridge,
the priming compound is contained in a cup mechanically positioned in a ‘pocket’ in
the center of the back end of the cartridge case. In a “rimfire cartridge,” the priming
compound has been placed on the outside rim of the cartridge case by centrifugal
force. The clear majority of cartridge types are centerfire; rimfire ammunition
generally consists of smaller cartridges, *e.g.*, .22LR.

1 portion of the trigger while firing.” Cal. Code Regs. tit. 11, § 5469(d). In other
2 words, a pistol grip allows for a more comfortable and stable grip, which in turn
3 promotes accuracy when shooting. “By holding the pistol grip, the shooter keeps the
4 barrel from rising after the first shot, and thereby stays on target for a follow-up shot.
5 The defensive application is obvious, as is the public safety advantage in preventing
6 stray shots.” *Kolbe v. Hogan*, 849 F.3d 114, 159 (4th Cir. 2017) (en banc) (Traxler,
7 J., dissenting) (citing David B. Kopel, *Rational Basis Analysis of “Assault Weapon”*
8 *Prohibition*, 20 J. Contemp. L. 381, 396 (1994)). A pistol grip also lessens recoil and,
9 by allowing a user to grip the rifle from below rather than from above, minimizes the
10 chance that a rifle will slip out of the user’s hand while firing, further increasing
11 safety, improving accuracy, and preventing stray shots.⁵

12 9. A “thumbhole stock” allows the thumb of the user’s “trigger hand to
13 penetrate into or through the stock while firing.” Cal. Code Regs. tit. 11, § 5469(e).
14 Like a pistol grip, a thumbhole stock makes it easier for a user to have a more
15 comfortable and stable grip, which provides for greater accuracy and decreases the
16 risk of dropping the weapon or firing stray shots.

17 10. A “flash suppressor” is a device designed to “reduce or redirect muzzle
18 flash”—the sudden flash of light caused by the explosion of gunpowder when a rifle
19 user fires a shot—“from the shooter’s field of vision.” Cal. Code Regs. tit. 11, §
20 5469(b). A “flash suppressor” prevents a rifle user from being blinded in low lighting
21 conditions, such as at dusk or dawn or during the nighttime. Another function of a
22 “flash suppressor” is to reduce recoil and muzzle (tip of the barrel) movement,
23 making the rifle less painful for the user to operate and increasing accuracy.

24 11. An adjustable (“telescoping”) stock permits the rifle’s user to adjust the
25 stock forward or backward, making it shorter or longer, according to his or her
26 specific physical size so that the rifle can be held comfortably.⁶ In other words, its

27 _____
28 ⁵ A “forward pistol grip” serves the same function for the user’s forward hand.
See Cal. Code Regs. tit. 11, § 5469(c).

⁶ California provides no definition for “telescoping stock.”

1 purpose is to fit the particular user’s arm length, making it easier, thus safer, to shoot;
2 particularly if there are multiple users of different sizes using the same rifle. And,
3 “there is essentially no difference between a short standard stock and a shortened
4 retractable stock.” *Murphy v. Guerrero*, No. 14-00026, 2016 WL 5508998, at *19
5 (D. N. Mar. I. Sept. 28, 2016). As long as the rifle does not have an illegally short
6 overall length⁷ when the adjustable stock is at its most compact setting, a non-
7 adjustable stock can lawfully be just as short.

8 12. In sum, a pistol grip, thumbhole stock, flash suppressor, and adjustable
9 (“telescoping”) stock (as those terms are defined by California regulations) are each
10 designed to make a rifle more comfortable or easier for a user to accurately operate,
11 thereby facilitating the rifle’s safe and effective operation when used for a lawful
12 purpose such as self-defense.

13 13. None of these features increases a rifle’s “rate of fire and capacity for
14 firepower.” Cal. Penal Code § 30505(a). To the contrary, they “actually tend to make
15 rifles easier to control and more accurate—making them safer to use.” *Murphy v.*
16 *Guerrero*, No. 14-00026, 2016 WL 5508998, at *18 (D. N. Mar. I. Sept. 28, 2016).

17 14. Rifles with these features are extremely popular with the American
18 public. Between 1990 and 2014, more than 11 million rifles having at least some of
19 these features were manufactured in or imported into the United States. *See Kolbe v.*
20 *Hogan*, 813 F.3d 160, 174 (4th Cir. 2016), *vacated* 849 F.3d 114 (2017). In 2012,
21 such rifles accounted for approximately 20 percent of all retail firearm sales. And in
22 2014 alone, approximately 1,228,000 such rifles were manufactured or sold in the
23 United States.⁸

24
25 ⁷ See Penal Code §§ 33210-33290, 17170 and 18 U.S.C.A. §§ 921(a)(8),
26 922(a)(4), 922(b)(4) (heavily restricting any “short-barreled” rifle having an overall
length of less than 26 inches).

27 ⁸ To put that in perspective, less than 570,000 Ford F-150 trucks—the best-
28 selling vehicle in the United States—were sold in 2014. Warren Clarke, *Top 10 Best-
Selling Vehicles for 2014*, Edmunds (Jan. 15, 2015), <https://www.edmunds.com/car-reviews/top-10/top-10-best-selling-vehicles-for-2014.html>.

1 15. Purchasers consistently report that one of the most important reasons for
2 their purchase of this class of rifle is self-defense. Other lawful and constitutionally
3 protected purposes for these rifles include hunting, competitive shooting, and target
4 shooting.

5 16. Rifles equipped with the banned features are no more dangerous or
6 susceptible to use for criminal purposes than those without them. In recognition of
7 that fact, the vast majority of States place no special restrictions on semiautomatic,
8 centerfire rifles with a detachable magazine for having a pistol grip, thumbhole
9 stock, flash suppressor, or adjustable stock. Indeed, only five States other than
10 California (plus the District of Columbia) place restrictions on such rifles, and all
11 those restrictions are of recent vintage.⁹

12 CALIFORNIA’S ASSAULT WEAPONS CONTROL ACT

13 A. General Principles

14 17. This case concerns what is known, in relevant part, as the Roberti-Roos
15 Assault Weapons Control Act of 1989, or the AWCA, found at Part 6, Title 4,
16 Division 10, Chapter 2 of the California Penal Code, commencing with section
17 30500.¹⁰

18 18. The AWCA generally makes it illegal to manufacture or cause to be
19 manufactured, distribute, transport, import into the state for sale, keep for sale, offer
20 or expose for sale, or give, or lend any “assault weapon.” A violation is punishable as
21 a felony by imprisonment for four, six, or eight years. Cal. Penal Code § 30600(a).

22 19. The AWCA also generally prohibits the possession of any “assault
23 weapon.” A violation is punishable as either a misdemeanor or felony with potential
24

25 ⁹ Connecticut (Conn. Gen. Stat. Ann. §§ 53-202a - 53-2020); Washington D.C.
26 (D.C. Code Ann. § 7-2501.01); Maryland (Md. Code Ann., Crim. Law § 4-301);
27 Massachusetts (Mass. Gen. Laws Ann. ch. 140, § 121); New Jersey (N.J. Stat. Ann. §
2C:39-1(w)); and New York (N.Y. Penal Law § 265.00(22)).

28 ¹⁰ These statutes are also known as the “.50 Caliber BMG Regulation Act of
2004.” The firearms impacted by the provisions of that Act, although appearing in
the same statutes as “assault weapons,” are not at issue in this litigation.

1 imprisonment in county jail or state prison. *Id.* § 30605(a); *id.* § 1170(h).

2 20. The AWCA includes a few limited exceptions that apply to specific
3 groups like peace officers, special “dangerous weapons permit” holders,¹¹ executors
4 of estates, and those specifically licensed to engage in the business of firearms
5 restricted under the AWCA. *See id.* §§ 30625-30630, 30645-30655, 31000-31005.
6 The exceptions do not, however, permit possession of an “assault weapon” by a
7 member of the general public.

8 21. As discussed further below, there is an exception to the general
9 restriction on “possessing” an “assault weapon” for anyone who lawfully acquired a
10 firearm prior to the legislature classifying that firearm as an “assault weapon,”
11 provided the firearm was registered with the California Department of Justice (“the
12 California DOJ”) as an “assault weapon” during the statutorily mandated registration
13 period. Firearms exempted from the ban by these “grandfathering” provisions,
14 however, generally cannot be transferred to ordinary private citizens in California,
15 including members of the owner’s family upon the death of the owner. They can only
16 be transferred to specified law enforcement agencies and personnel, certain
17 “dangerous weapon” permit holders, or those who reside out of state. *Id.* §§ 30625,
18 30645, 30650, 31055, 31100. Thus, lawful possession of timely registered
19 grandfathered “assault weapons” is effectively confined to the lifetime of the current
20 owner, after which the executor of the estate must dispose of them as described in the
21 preceding sentence or law enforcement will confiscate them.

22 **B. Definition of “Assault Weapon”**

23 22. The class of firearms that California defines as “assault weapons” has
24 evolved (and expanded) several times since the AWCA was first enacted in 1989.

25 23. As originally written, the AWCA expressly declared over 55 firearms,
26

27 ¹¹ This permit is generally issued only to those in the business of selling or
28 transferring such firearms, and only upon demonstrating a bona fide market or public
necessity for the issuance of such a permit in their application to the Department of
Justice. *See* Cal. Code Regs, tit. 11, §§ 4132-4137.

1 listed by make and model, to be “assault weapons.” Those firearms include the
2 “Avtomat Kalashnikovs (AK) series,” the “Colt AR-15 and AR-15 series” rifles, the
3 “SKS with detachable magazine,” and any firearm declared an “assault weapon” by a
4 court under Penal Code section 30520 (former Penal Code section 12276.5).¹² *See*
5 *Assemb. B. 357, 1989-1990 Reg. Sess. (Cal. 1989), 1989 Cal. Stat. 64-65.*

6 ***Category 1 Assault Weapons***

7 24. In 1991, the Legislature amended the AWCA to add several new
8 firearms to the list of restricted “assault weapons,” including “Made in China AK,
9 AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.” *See* Cal. Penal Code § 30510
10 (former Cal. Penal Code § 12276 (1992)) (added by Sen. B. 263, 1991-1992 Reg.
11 Sess. (Cal. 1991), 1991 Cal. Stat. 4440-41). The “Avtomat Kalashnikovs (AK)
12 series” and “CAR-15 series” were removed, while the provision banning the “Colt
13 AR-15 series” remained. *See id.* And “[a]ll AK series” were added to the list. *See id.*
14 This list of firearms commonly became known as “Category 1” “assault weapons.”

15 25. Category 1 “assault weapons” were required to be registered on or
16 before March 31, 1992, following an extension after the 1991 amendment. *See* Cal.
17 Penal Code § 30960(a) (former Cal. Penal Code § 12285(f) (1992)). It is no longer
18 possible to register a Category 1 “assault weapon” and, therefore, no longer possible
19 for the public to acquire one. Individuals who still possess a Category 1 “assault
20 weapon” can only legally do so if the firearm was properly registered by the
21 applicable deadline. And as explained above, registered owners of Category 1
22 “assault weapons” cannot transfer them to ordinary private citizens within California,
23 even their own family members upon their death.

24 ***Category 2 Assault Weapons***

25 26. In 2000, the California Supreme Court explained the legal requirements
26 for adding a firearm to the list of “assault weapons.” *Kasler v. Lockyer*, 23 Cal. 4th

27
28 ¹² In 2010, the legislature reorganized without substantive change all the Penal
Code sections relating to “deadly weapons,” including those relating to “assault
weapons.” *See* Sen. B. 1080, 2009-2010 Reg. Sess. (Cal. 2010).

1 472 (2000). Immediately following this decision, the California DOJ added more
2 than 60 AR-15 and AK “series” firearms to that list. These firearms are commonly
3 referred to as “Category 2 assault weapons.”

4 27. The list of rifles that the California DOJ deemed “assault weapons” as
5 “series” makes and models, or Category 2 “assault weapons” can be found at 11
6 C.C.R. § 5499. In 2006, the legislature repealed the California DOJ’s authority to
7 add firearms to the list of “assault weapons” identified in 11 C.C.R. § 5499. *See* Cal.
8 Penal Code § 30520 (former Cal. Penal Code § 12276.5) (added by Assemb. B.
9 2718, 2005-2006 Reg. Sess. (Cal. 2006), 2006 Cal. Stat. 6342-43). Thus, the list of
10 firearms deemed “assault weapons” by make and model in Penal Code section 30510
11 or 11 C.C.R. § 5499 (Category 1 or Category 2 “assault weapons”) is now static.¹³

12 28. Category 2 “assault weapons” were required to be registered on or
13 before January 23, 2001. It is no longer possible to register a Category 2 “assault
14 weapon” and, therefore, no longer possible for the public to acquire one. Individuals
15 who still possess a Category 2 “assault weapon” can only legally do so if it was
16 properly registered by the applicable deadline. And as explained above, registered
17 owners of Category 2 assault weapons cannot transfer them to ordinary private
18 citizens within California, even their own family members upon their death.

19 *Category 3 Assault Weapons*

20 29. In 1999, the legislature again amended the AWCA to further expand the
21 definition of “assault weapon.” Unlike Category 1 and Category 2 “assault
22 weapons,” which are expressly listed by make and model, this time the legislature
23 classified a firearm as an “assault weapon” based on its features and configuration.
24 *See* Cal. Penal Code § 30515 (former Cal. Penal Code § 12276.1) (added by Sen. B.
25 123, 1999-2000 Reg. Sess. (Cal. 1999), 1999 Cal. Stat. 1805-06). Firearms meeting
26 this definition are commonly referred to as “Category 3” “assault weapons.”

27
28 ¹³ *See* Assault Weapons Identification Guide, California Attorney General,
<https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/awguide.pdf> (3d Ed.,
Nov. 2001).

1 30. Category 3 “assault weapons” include:

2 (a) (1) A semiautomatic, centerfire rifle *that has the*
3 *capacity to accept a detachable magazine and any*
4 *one of the following:*

5 (A) A pistol grip that protrudes conspicuously
6 beneath the action of the weapon.

7 (B) A thumbhole stock.

8 (C) A folding or telescoping stock.

9 (D) A grenade launcher or flare launcher.

10 (E) A flash suppressor.

11 (F) A forward pistol grip.

12 (2) A semiautomatic, centerfire rifle that has a
13 fixed magazine with the capacity to accept more than
14 10 rounds.

15 (3) A semiautomatic, centerfire rifle that has an
16 overall length of less than 30 inches.

17 (4) A semiautomatic pistol *that has the capacity*
18 *to accept a detachable magazine and any one of the*
19 *following:*

20 (A) A threaded barrel, capable of accepting a
21 flash suppressor, forward handgrip, or
22 silencer.

23 (B) A second handgrip.

24 (C) A shroud that is attached to, or partially or
25 completely encircles, the barrel that allows the
26 bearer to fire the weapon without burning the
27 bearer’s hand, except a slide that encloses the
28 barrel.

 (D) The capacity to accept a detachable
 magazine at some location outside of the pistol
 grip.

 (5) A semiautomatic pistol with a fixed magazine
 that has the capacity to accept more than 10 rounds.

 (6) A semiautomatic shotgun that has both of the
 following:

1 (A) A folding or telescoping stock.

2 (B) A pistol grip that protrudes conspicuously
3 beneath the action of the weapon, thumbhole
4 stock, or vertical handgrip.

5 (7) A semiautomatic shotgun that has the ability
6 to accept a detachable magazine.

7 (8) Any shotgun with a revolving cylinder.

8 Cal. Penal Code § 30515.

9 31. In 2000, the California DOJ promulgated regulations, defining the
10 following key terms for Category 3 “assault weapons”: (a) “Detachable magazine;”
11 (b) “Flash suppressor;” (c) “Forward pistol grip;” (d) “Pistol grip that protrudes
12 conspicuously beneath the action of the weapon;” and (e) “Thumbhole stock.” Cal.
13 Code Regs. tit. 11, § 5469.

14 32. Category 3 “assault weapons” were required to be registered on or
15 before December 31, 2000. It is no longer possible to register a Category 3 “assault
16 weapon” and, therefore, no longer possible for the public to acquire one. Individuals
17 who still possess a Category 3 “assault weapon” can only legally do so if it was
18 properly registered by the applicable deadline. And as explained above, registered
19 owners of Category 3 “assault weapons” cannot transfer them to ordinary private
20 citizens within California, even their own family members upon their death.

21 ***Category 4 Assault Weapons***

22 33. Because Category 3 assault weapons must have “the capacity to accept a
23 detachable magazine,” Cal. Penal Code § 30505, rifle owners who preferred to keep
24 safety and accuracy-enhancing features like a pistol grip, thumbhole stock, flash
25 suppressor, or adjustable stock (which would otherwise be banned under the
26 Category 3 definition) could avoid categorization as a Category 3 “assault weapon”
27 by disabling their rifle’s capacity to accept a detachable magazine. To do so, they
28 typically retrofitted their firearms with an aftermarket product generally referred to
as a “magazine lock.”

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(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

....

(4) A semiautomatic pistol *that does not have a fixed magazine but has any one of the following:*

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(B) A second handgrip.

(C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer’s hand, except a slide that encloses the barrel.

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(b) For purposes of this section, “fixed magazine” means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

Cal. Penal Code § 30515 (subdivisions (a)(1), (a)(4), and (b) are emphasized to underscore the only changes made to the definition of “assault weapon” from 2016 to 2017).

37. Firearms now classified as “assault weapons” as a result of Assembly Bill 1135 and Senate Bill 880 are being referred to as “Category 4” “assault weapons.” The sale or transfer of a Category 4 “assault weapon” is prohibited as of January 1, 2017. Thus, it is no longer possible to acquire a Category 4 (or any) “assault weapon” in California.

38. Individuals who currently possess a Category 4 “assault weapon” can

1 only legally do so if they lawfully acquired and possessed it before January 1, 2017,
2 and they must register such firearms by December 31, 2017. It will be illegal to
3 possess an unregistered Category 4 “assault weapon” after December 31, 2017, even
4 if that firearm was lawfully acquired. Like registered owners of earlier-designated
5 “assault weapons,” registered owners of Category 4 “assault weapons” cannot
6 transfer them to ordinary private citizens within California, even their own family
7 members upon their death.

8 **C. Summary of Assault Weapons Regulation**

9 39. As a result of the Category 4 “assault weapon” definition, a rifle that
10 does *not* have a fixed magazine is an “assault weapon” if it has any of the statutorily
11 enumerated features (pistol grip, thumbhole stock, flash suppressor, or adjustable
12 stock), but a rifle that *does* have a fixed magazine is *not* an assault weapon even if it
13 has all of those features.

14 40. A Category 3 or Category 4 “assault weapon” can be modified so that it
15 no longer meets the “assault weapon” definition by removing the features that
16 qualify it as one. These modified firearms would not need to be registered and may
17 be lawfully possessed, used, or transferred, subject only to California’s general
18 firearm laws. For example, the owner of a generic AR-15 platform rifle could
19 remove the “pistol grip” and “flash suppressor” and permanently affix the stock so it
20 is not adjustable; the firearm would then be considered a standard rifle under
21 California law and not an “assault weapon.”

22 41. That is not the case, however, with Category 1 or Category 2 “assault
23 weapons” (those expressly listed by make and model in Penal Code section 30510 or
24 11 C.C.R. § 5499). They remain “assault weapons” forever, regardless of their
25 features, must be registered, and cannot generally be transferred.

26 42. There are two noteworthy practical effects of this distinction between
27 Category 1 and 2 “assault weapons” and Category 3 and 4 “assault weapons.” First,
28 rifles that are essentially identical in function, configuration, features, design, caliber,

1 rate of fire, and ammunition capacity, can have drastically different treatment under
2 the law, solely because of what maker's marks the rifles have etched onto their
3 surface. For example, a rifle with "Colt AR-15" engraved on it that does not have a
4 "pistol grip" or "flash suppressor" and has a fixed (non-adjustable) stock is still an
5 "assault weapon," while a rifle in the same configuration with "Illegal Assault
6 Weapon" engraved on it is not. Second, the rifle marked "Illegal Assault Weapon"
7 could legally have a "detachable magazine" and not be an "assault weapon," as long
8 as it does not have other restricted features, while the rifle marked "Colt AR-15"
9 could have a fixed magazine and would still be an "assault weapon."

10 43. As long as their overall length is at least 30 inches, California does not
11 place any additional restrictions on semiautomatic, centerfire rifles with detachable
12 magazines that do not have the restricted "assault weapon" features (pistol grip,
13 thumbhole stock, flash suppressor, or adjustable stock). This means that an eighteen-
14 year-old who is not otherwise disqualified from firearm ownership in California may
15 lawfully purchase and use such a rifle, subject only to California's general firearm
16 restrictions that are not at issue here.

17 44. It also means that California is the only state other than Connecticut¹⁴ to
18 treat as an "assault weapon" any semiautomatic, centerfire rifle—regardless of its
19 magazine system or ammunition capacity—that is under 30 inches in overall length.

20 PARTIES

21 Plaintiffs

22 45. Plaintiff Steven Rupp is a resident of Orange County, California, and a
23 law-abiding citizen of the United States. Plaintiff Rupp lawfully owns a semi-
24 automatic, centerfire rifle with a non-fixed magazine and a pistol grip, flash
25 suppressor, and adjustable stock, making it an "assault weapon" under the latest
26 amendment to the AWCA (Category 4). He keeps it in his home for self-defense and
27

28 ¹⁴ Conn. Gen. Stat. Ann. § 53-202a(1)(E)(iii).

1 other lawful purposes, like training and recreation. As a result of the AWCA,
2 Plaintiff Rupp is prohibited from transferring his rifle to his offspring, which he
3 would do but for this restriction and fear of prosecution for violating the AWCA. Mr.
4 Rupp also owns a firearm frame or “lower receiver” that he wishes to assemble into a
5 fully functioning semiautomatic, centerfire rifle with a detachable magazine that has
6 a pistol grip, flash suppressor, and adjustable stock. As a result of the AWCA, he is
7 prohibited from assembling his firearm frame into a semiautomatic, centerfire rifle
8 that has a non-fixed magazine and a pistol grip, flash suppressor, or adjustable stock.
9 But for this restriction and fear of prosecution for violating the AWCA, Mr. Rupp
10 would assemble his firearm frame into such a configuration, which rifle he would use
11 for self-defense and for other lawful purposes.

12 46. Plaintiff Steven Dember is a resident of Orange County, California, and
13 a law-abiding citizen of the United States. Plaintiff Dember seeks to acquire a rifle
14 that is prohibited by the AWCA to keep in his home for self-defense and other lawful
15 purposes, like hunting, training, and recreation. But for the AWCA and his fear of
16 prosecution for violating it, Plaintiff Dember would acquire a semiautomatic,
17 centerfire rifle with a detachable magazine, having one or more of the features that
18 would make it a prohibited “assault weapon” under California law.

19 47. Plaintiff Cheryl Johnson is a resident of Orange County, California, and
20 a law-abiding citizen of the United States. Plaintiff Johnson seeks to acquire a rifle
21 that is prohibited by the AWCA to keep in her home for self-defense and other
22 lawful purposes, like hunting, training, and recreation. But for the AWCA and her
23 fear of prosecution for violating it, Plaintiff Johnson would acquire a semiautomatic,
24 centerfire rifle with a detachable magazine, having one or more of the features that
25 would make it a prohibited “assault weapon” under California law.

26 48. Plaintiff Michael Jones is a resident of Orange County, California and a
27 law-abiding citizen of the United States. Mr. Jones lawfully owns a semiautomatic,
28 centerfire rifle which he keeps in his home for self-defense and for other lawful

1 purposes, such as hunting and recreation. Mr. Jones' rifle is deemed an "assault
2 weapon" based on the rifle's features under the latest amendment to the AWCA (it is
3 a Category 4 "assault weapon"). As such, he must register the firearm as an "assault
4 weapon" before January 1, 2018, for his possession of it in that configuration to
5 continue to be lawful, which he intends to do. Upon so registering it, Plaintiff Jones
6 will not be able to devise or transfer his rifle in that configuration to his offspring or
7 otherwise devise or transfer his property to law-abiding Californians. But for this
8 restriction and fear of prosecution for violating the AWCA, Plaintiff Jones would
9 devise or transfer his rifle to his offspring.

10 49. Plaintiff Christopher Seifert is a resident of Orange County, California
11 and a law-abiding citizen of the United States. Mr. Seifert lawfully owns a registered
12 semi-automatic centerfire rifle with a detachable magazine, which he keeps in his
13 home for self-defense and for other lawful purposes, such as hunting and recreation.
14 Mr. Seifert's rifle is deemed an "assault weapon" under California law because it has
15 a detachable magazine and at least one prohibited feature (it is a Category 3 "assault
16 weapon"). As such, Plaintiff Seifert cannot devise or transfer his rifle to offspring or
17 otherwise devise or transfer his property to law-abiding Californians. But for this
18 restriction and fear of prosecution for violating the AWCA, Plaintiff Seifert would
19 devise or transfer his rifle to his offspring. Mr. Seifert also owns a firearm frame or
20 "lower receiver" that he wishes to assemble into a fully functioning semiautomatic,
21 centerfire rifle with a detachable magazine that has a pistol grip, flash suppressor,
22 and adjustable stock. As a result of the AWCA, he is prohibited from assembling his
23 firearm frame into a semiautomatic, centerfire rifle that has a non-fixed magazine
24 and a pistol grip, flash suppressor, or adjustable stock. But for this restriction and
25 fear of prosecution for violating the AWCA, Mr. Seifert would assemble his firearm
26 frame into such a configuration, which rifle he would use for self-defense and for
27 other lawful purposes.

28 50. Plaintiff Alfonso Valencia is a resident of Orange County, California, a

1 law-abiding citizen of the United States, and former Los Angeles Deputy Sheriff.
2 Plaintiff Valencia seeks to acquire a rifle that is prohibited by the AWCA to keep in
3 his home for self-defense and other lawful purposes, like hunting, training, and
4 recreation. But for the AWCA and his fear of prosecution for violating it, Plaintiff
5 Valencia would acquire a semiautomatic, centerfire rifle with a detachable magazine,
6 having one or more of the features that would make it a prohibited “assault weapon”
7 under California law.

8 51. Plaintiff Troy Willis is a resident of Riverside County, California and a
9 law-abiding citizen of the United States, and a retired reserve officer for the Indio
10 Police Department. Mr. Willis lawfully owns a registered semiautomatic centerfire
11 rifle with a detachable magazine, which he keeps in his home for self-defense and for
12 other lawful purposes, such as hunting and recreation. Mr. Willis’ rifle is deemed an
13 “assault weapon” under California law because it has a detachable magazine and at
14 least one prohibited feature (it is a Category 3 “assault weapon”). As such, Plaintiff
15 Willis cannot devise or transfer his rifle to his offspring or otherwise devise or
16 transfer his property to law-abiding Californians. But for this restriction and fear of
17 prosecution for violating the AWCA, Plaintiff Willis would devise or transfer his
18 rifle to his offspring.

19 52. Each of the individual Plaintiffs identified above is eligible under the
20 laws of the United States and of the State of California to receive and possess
21 firearms.

22 53. Plaintiff California Rifle & Pistol Association, Inc. (“CRPA”), is a
23 nonprofit membership and donor-supported organization qualified as tax-exempt
24 under 26 U.S.C. § 501(c)(4) with its headquarters in Fullerton, California. Founded
25 in 1875, CRPA seeks to defend the civil rights protected under the Second
26 Amendment of all law-abiding individuals, including the fundamental right to
27 acquire, possess, use, and transfer firearms.

28 54. CRPA also provides guidance to California gun owners regarding their

1 legal rights and responsibilities. In addition, CRPA is dedicated to promoting the
2 shooting sports and providing education, training, and organized competition for
3 adult and junior shooters. CRPA members come from virtually all walks of life,
4 including law enforcement officers, professionals, firearm experts, and many others.

5 55. In this suit, CRPA represents the interests of the tens of thousands of its
6 members who reside in the State of California, including Orange County, who are
7 too numerous to conveniently bring this action individually, and who are impacted
8 by California's "assault weapon" laws. CRPA members wish to exercise their
9 constitutionally protected Second Amendment right to keep and bear arms without
10 being subjected to criminal prosecution. There are countless CRPA members who
11 are, or will be, eligible for lawful firearm ownership in California who, but for the
12 AWCA and fear of prosecution for violating it, would acquire, assemble, or import to
13 possess in their homes for self-defense and other lawful purposes, a semiautomatic,
14 centerfire rifle with a detachable magazine and a "pistol grip," "flash suppressor,"
15 "thumbhole stock," or adjustable stock. There are also CRPA members who already
16 lawfully possess such firearms and would, but for the AWCA and fear of prosecution
17 for violating it, transfer them to offspring or other law-abiding Californians.

18 **Defendants**

19 56. Defendant Xavier Becerra is the Attorney General of California. He is
20 the chief law enforcement officer of California. Defendant Becerra is charged by
21 Article V, Section 13 of the California Constitution with the duty to see that the laws
22 of California are uniformly and adequately enforced. Defendant Becerra also has
23 direct supervision over every district attorney and sheriff in all matters pertaining to
24 the duties of their respective officers. Defendant Becerra's duties also include
25 informing the public, local prosecutors, and law enforcement regarding the meaning
26 of the laws of the State, including restrictions on certain firearms classified as
27 "assault weapons." He is sued in his official capacity.

28 57. The true names or capacities, whether individual, corporate, associate or

1 otherwise of the Defendants named herein as Does 1-10, are presently unknown to
2 Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs pray
3 for leave to amend this Complaint to show the true names or capacities of these
4 Defendants if and when the same have been determined.

5 58. Defendants Becerra and Does 1-10 are responsible for formulating,
6 executing, and administering California's "assault weapons" laws at issue in this
7 lawsuit and are in fact presently enforcing them.

8 59. Defendants enforce California's "assault weapon" laws against
9 Plaintiffs and other California citizens under color of state law within the meaning of
10 42 U.S.C. § 1983.

11 **JURISDICTION AND VENUE**

12 60. The Court has original jurisdiction of this civil action under 28 U.S.C. §
13 1331 because the action arises under the Constitution and laws of the United States,
14 thus raising federal questions. The Court also has jurisdiction under 28 U.S.C. §
15 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the deprivation,
16 under color of the laws, statutes, ordinances, regulations, customs, and usages of the
17 State of California and political subdivisions thereof, of rights, privileges or
18 immunities secured by the United States Constitution and by Acts of Congress.

19 61. Plaintiffs' claims for declaratory and injunctive relief are authorized by
20 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys' fees is
21 authorized under 42 U.S.C. § 1988.

22 62. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2)
23 because a substantial part of the events or omissions giving rise to the claims
24 occurred in this district.

25 **GENERAL ALLEGATIONS**

26 **[Right to Keep and Bear Arms]**

27 63. The Second Amendment to the United States Constitution declares that
28 "the right of the people to keep and bear arms shall not be infringed." U.S. Const.

1 amend. II.

2 64. The United States Supreme Court has concluded (thrice) that “[s]elf-
3 defense is a basic right, recognized by many legal systems from ancient times to the
4 present day, and . . . individual self-defense is ‘the central component’ of the Second
5 Amendment right.” *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010) (quoting
6 *Heller*, 554 U.S. at 599, 628); *see also Caetano v. Massachusetts*, -- U.S. --, 136 S.
7 Ct. 1027 (2016). The Court has held that “a prohibition of an entire class of ‘arms’
8 that is overwhelmingly chosen by American society” is unconstitutional, especially
9 when that prohibition extends “to the home, where the need for defense of self,
10 family, and property is most acute.” *Heller*, 554 U.S. at 628.

11 65. The “arms” protected by the Second Amendment are those “typically
12 possessed by law-abiding citizens for lawful purposes” today. *Id.* at 624-25; *see also*,
13 *e.g.*, *Caetano*, 136 S. Ct. at 1027-28. The Court has specifically explained that
14 semiautomatic rifles, including ones prohibited by California, “traditionally have
15 been widely accepted as lawful possessions.” *Staples*, 511 U.S. at 612.

16 66. The Supreme Court has also held that the Second Amendment right to
17 keep and bear arms is incorporated into the Due Process Clause of the Fourteenth
18 Amendment and so may not be infringed by state and local governments. *McDonald*,
19 561 U.S. at 750.

20 [Due Process Clause]

21 67. The Due Process Clause of the Fourteenth Amendment provides that
22 “No state shall . . . deprive any person of life, liberty, or property, without due process
23 of law.” U.S. Const. amend. XIV.

24 68. “The touchstone of due process is protection of the individual against
25 arbitrary action of government.” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974); *see*,
26 *e.g.*, *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (collecting cases). Thus,
27 a statute that deprives an individual of life, liberty, or property arbitrarily or
28 irrationally—that is, without serving “any legitimate governmental objective”—

1 violates the Due Process Clause. *Lingle*, 544 U.S. at 542.

2 69. Legislation that changes the law retroactively—making illegal conduct
3 that was legal when undertaken—is especially likely to run afoul of the Due Process
4 Clause. *See Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 16-17 (1976); *E.*
5 *Enterprs. v. Apfel*, 524 U.S. 498, 547-550 (1998) (Kennedy, J., concurring in part
6 and dissenting in part). “If retroactive laws change the legal consequences of
7 transactions long closed, the change can destroy the reasonable certainty and security
8 which are the very objects of property ownership. As a consequence, due process
9 protection for property must be understood to incorporate our settled tradition against
10 retroactive laws of great severity.” *Id.* at 548-49.

11 70. A law that deprives an owner of private property without a legitimate
12 justification violates the Due Process Clause regardless of whether it also violates the
13 Takings Clause. *See Lingle*, 544 U.S. at 541-42; *id.* at 548-49 (Kennedy, J.,
14 concurring).

15 [Takings Clause]

16 71. The Takings Clause of the Fifth Amendment provides “nor shall private
17 property be taken for public use, without just compensation.” U.S. Const. amend. V.
18 The Takings Clause applies against the States through the Fourteenth Amendment.
19 *See Lingle*, 544 U.S. at 536.

20 72. The Takings Clause protects against two kinds of governmental takings:
21 a direct “physical appropriation” of “an interest in property,” and “a restriction on the
22 use of property,” which is known as a “regulatory taking.” *Horne*, 135 S. Ct. at 2425,
23 2427 (2015). “When the government physically takes possession of an interest in
24 property for some public purpose, it has a categorical duty to compensate the former
25 owner.” *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S.
26 302, 322 (2002). Likewise, a regulation that “goes too far”—for example, by
27 depriving a landowner of economically beneficial use or otherwise “interfer[ing]
28 with legitimate property interests”—requires just compensation. *Lingle*, 544 U.S. at

1 537-39.

2 73. Among the many protected “interest[s] in property” is “the right to pass
3 on property—to one’s family in particular” after death. *Hodel*, 481 U.S. at 716. The
4 right to devise property is “one of the most essential sticks in the bundle of” property
5 rights and cannot be “completely abolished” by the government without
6 compensation. *Id.* at 716-17.

7 **[Violation of Plaintiffs’ Right to Keep and Bear Arms]**

8 74. Semiautomatic, centerfire rifles with a detachable magazine, including
9 those that the AWCA expressly prohibits by make and model, are arms “typically
10 possessed by law-abiding citizens for lawful purposes” throughout the United States.
11 *Heller*, 554 U.S. at 624-25.

12 75. Most of the features prohibited on semiautomatic, centerfire rifles with a
13 detachable magazine by Penal Code section 30515(a)(1)—a “pistol grip,” a “flash
14 suppressor,” and a “thumbhole stock” or adjustable stock, or any combination of
15 these features (as those terms are defined in California Code of Regulations, title 11,
16 section 5469)—are standard on rifles that are “typically possessed by law-abiding
17 citizens for lawful purposes,” *Heller*, 554 U.S. at 624-25, throughout the United
18 States.¹⁵

19 76. No public interest is furthered by prohibiting these common rifle
20 features, or by prohibiting any of the commonly possessed rifles that California
21 expressly lists as “assault weapons” by make and model on the ground that they have
22 such features. None of these features makes the rifles more dangerous, raises their
23 likelihood of use in crimes, or increases the power, rate of fire, or ammunition
24 capacity of a semiautomatic, centerfire rifle with a detachable magazine. To the
25

26 ¹⁵ Plaintiffs do not assert that “grenade launchers,” listed as a prohibited
27 feature under California’s definition of an “assault weapon,” are in common use or
28 otherwise protected under the Second Amendment. Such devices are restricted as
“destructive devices” under California law, the possession of which is generally
prohibited irrespective of California’s “assault weapon” restrictions. *See* Cal. Penal
Code §§ 16460(a)(2), 18710. Those laws are not challenged here.

1 contrary, these features enhance public safety by making rifles safer, more accurate,
2 and more effective for use in self-defense.

3 77. Semiautomatic, centerfire rifles with an overall length of 26 inches or
4 more are arms “typically possessed by law-abiding citizens for lawful purposes”
5 throughout the United States. *Heller*, 554 U.S. at 624-25. The AWCA uniquely (with
6 the sole exception of Connecticut) bars any such rifles under 30 inches, regardless of
7 their magazine system, ammunition capacity, or features. In doing so, it bans
8 countless rifles of lengths that are common and generally accepted for lawful
9 purposes throughout the country.¹⁶

10 [Violation of Plaintiffs’ Right to Due Process]

11 78. The AWCA violates Plaintiffs’ rights under the Due Process Clause
12 because it deprives them of protected property interests—namely, the possession and
13 transfer of otherwise-lawful rifles—without due process of law. The due process
14 concerns are heightened here because the ban applies retroactively to eliminate
15 property rights (including the right to transfer or devise the rifles to a family member
16 in California) that existed at the time the rifles were purchased. *See E. Enterprs.*, 524
17 U.S. at 547-550 (Kennedy, J., concurring in part and dissenting in part).

18 79. The ban violates Plaintiffs’ due process rights because it imposes
19 prohibitions and restrictions that have nothing to do with furthering any permissible
20 governmental objective. *Lingle*, 544 U.S. at 542. Moreover, the ban draws arbitrary
21 distinctions, prohibiting rifles that have the statutorily enumerated features in
22 combination with a non-fixed magazine while permitting rifles that have the exact
23 same statutorily enumerated features in combination with a fixed magazine, and
24 prohibiting rifles with a fixed magazine due to their maker’s marks, regardless of
25 their features, while permitting effectively identical rifles with non-fixed magazines,

26
27 ¹⁶ Penal Code § 30515(a)(3); *see* Penal Code §§ 33210-33290, 17170 and 18
28 U.S.C.A. §§ 921(a)(8), 922(a)(4), 922(b)(4) (heavily restricting any “short-barreled”
rifle having an overall length of less than 26 inches). Plaintiffs do not challenge these
“short-barreled” rifle restrictions, but only California’s prohibition on semiautomatic
centerfire rifles with an overall length of under 30 inches and over 26 inches.

1 as long as they do not have the prohibited features.

2 **[Violation of the Plaintiffs’ Rights Under the Takings Clause]**

3 80. The AWCA violates Plaintiffs’ rights under the Takings Clause. Not
4 only does the law severely constrain Plaintiffs’ rights to transfer their lawfully
5 acquired rifles property during their lifetimes; it requires them upon their death to
6 physically surrender to the government (or a tiny category of people permitted by the
7 government to possess dangerous weapons) lawfully acquired rifles that they would
8 otherwise devise to their children or heirs. The law thus deprives Plaintiffs of their
9 property rights—indeed, destroys “one of the most essential sticks in the bundle of”
10 property rights—without compensation. *Hodel*, 481 U.S. at 716; *see Horne*, 135 S.
11 Ct. at 2427; *Lingle*, 544 U.S. at 537-39.

12 **DECLARATORY JUDGMENT ALLEGATIONS**

13 81. There is an actual and present controversy between the parties. Plaintiffs
14 contend that the AWCA infringes on Plaintiffs’ right to keep and bear arms under the
15 Second and Fourteenth Amendments to the United States Constitution, by generally
16 prohibiting commonly-possessed firearms it deems “assault weapons.” Plaintiffs also
17 contend that the AWCA violates the Due Process Clause by banning lawfully
18 acquired firearms based on features that have nothing to do with enhancing public
19 safety or any other valid governmental objective. And Plaintiffs contend that the
20 AWCA violates the Takings Clause by depriving them of protected property interests
21 in their lawfully acquired firearms without compensation. Defendants deny these
22 contentions. Plaintiffs desire a judicial declaration that California Penal Code
23 sections 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F), 30515(a)(3), 30520, 30600,
24 30605, 30925, and 30945, as well as California Code of Regulations, title 11, section
25 5499, violate Plaintiffs’ constitutional rights. Plaintiffs should not be forced to
26 choose between risking criminal prosecution and exercising their constitutional rights
27 to keep and bear common arms for self-defense and other lawful purposes, and to
28 devise their lawfully acquired property to their heirs.

INJUNCTIVE RELIEF ALLEGATIONS

1
2 82. Plaintiffs are presently and continuously injured by Defendants’
3 enforcement of California Penal Code 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-
4 F), 30515(a)(3), 30520, 30600, 30605, 30925, and 30945, as well as California Code
5 of Regulations, title 11, section 5499, insofar as those provisions violate Plaintiffs’
6 rights under the Second Amendment, the Due Process Clause, and the Takings
7 Clause by precluding (without compensation) the acquisition, possession, use, and
8 transfer of rifles that are “typically possessed by law-abiding citizens for lawful
9 purposes” nationwide.

10 83. If not enjoined by this Court, Defendants will continue to enforce the
11 Act in derogation of Plaintiffs’ constitutional rights. Plaintiffs have no plain, speedy,
12 and adequate remedy at law. Damages are indeterminate or unascertainable and, in
13 any event, would not fully redress any harm suffered by Plaintiffs due to their
14 inability to engage in constitutionally protected activity because of California’s
15 ongoing enforcement of the AWCA.

CLAIMS FOR RELIEF

Right to Keep and Bear Arms

(U.S. Const. amends. II and XIV)

16
17
18
19 84. Paragraphs 1-83 are realleged and incorporated herein by reference.

20 85. The AWCA’s definition of “assault weapon”—whether by express
21 listing of make and model or by prohibited feature combinations—includes the most
22 popular class of rifles in the nation. The AWCA, therefore, generally prohibits
23 Californians or those visiting California from the acquisition, importation, use,
24 possession, and transfer of such rifles, subject to severe criminal penalties, including
25 up to years in prison.

26 86. These prohibitions and restrictions on rifles that are commonly
27 possessed throughout the United States by law-abiding, responsible citizens for
28 lawful purposes infringe on the right of the People of California, including Plaintiffs,

1 to keep and bear protected arms as guaranteed by the Second Amendment of the
2 United States Constitution, and as made applicable to California by the Fourteenth
3 Amendment.

4 87. In violation of the Second Amendment, the AWCA prohibits law-
5 abiding, responsible adults, including Plaintiffs Rupp, Dember, Johnson, and
6 Valencia, as well as members of CRPA, who would otherwise do so, from acquiring
7 a rifle listed in Penal Code section 30510 or 11 C.C.R. § 5499 (Category 1 or 2
8 “assault weapons”) or that has features listed in Penal Code section 30515(a)
9 (Category 3 “assault weapons”) that are standard on rifles that are in common use by
10 law-abiding citizens for lawful purposes throughout the United States.

11 88. In violation of the Second Amendment, the AWCA prohibits law-
12 abiding, responsible adults, including Plaintiffs Rupp, Dember, Johnson, Valencia,
13 and Seifert, as well as members of CRPA, who would otherwise do so, from
14 possessing a rifle that is listed in Penal Code section 30510 or 11 C.C.R. § 5499
15 (Category 1 or 2 “assault weapons”) or that has features listed in Penal Code section
16 30515(a) (Category 3 “assault weapons”) that are standard on rifles in common use
17 by law-abiding citizens for lawful purposes throughout the United States.

18 89. In violation of the Second Amendment, the AWCA prohibits law-
19 abiding, responsible adults, including Plaintiffs Rupp and Seifert, as well as members
20 of CRPA, who would otherwise do so, from adding features listed in Penal Code
21 section 30515(a) that are standard on rifles in common use by law-abiding citizens
22 for lawful purposes throughout the United States to their semiautomatic, centerfire
23 rifles.

24 90. In violation of the Second Amendment, the AWCA prohibits law-
25 abiding, responsible adults, including Plaintiffs Seifert and Willis, as well as
26 members of CRPA, who would otherwise do so, from transferring to their offspring
27 or to other law-abiding Californian residents a rifle that is listed in Penal Code
28 section 30510 or 11 C.C.R. § 5499 (Category 1 or 2 “assault weapons”), which

1 belongs to the most popular class of rifles among law-abiding citizens for lawful
2 purposes throughout the United States.

3 91. In violation of the Second Amendment, the AWCA prohibits law-
4 abiding, responsible adults, including Plaintiff Jones, as well as members of CRPA,
5 who would otherwise do so, from transferring to their offspring or to other law-
6 abiding Californian residents a rifle that is deemed an “assault weapons” by virtue of
7 its features, which belongs to the most popular class of rifles among law-abiding
8 citizens for lawful purposes throughout the United States.

9 92. In violation of the Second Amendment, the AWCA prohibits law-
10 abiding, responsible adults, including members of CRPA who would otherwise do
11 so, from obtaining or possessing semiautomatic, centerfire rifles, regardless of their
12 magazine system or ammunition capacity, with an overall length of less than 30 but
13 more than 26 inches, as the general consensus in the country for decades has been
14 that rifles with an overall length of more than 26 inches are acceptable for use, and
15 typically used by, law-abiding people for lawful purposes.¹⁷ In doing so, it bans
16 countless rifles of lengths that are common and generally accepted throughout the
17 country for lawful purposes.

18 93. The AWCA’s prohibitions extend into Plaintiffs’ homes, where the
19 Second Amendment protections are at their zenith, but also affects lawful and
20 constitutionally protected conduct such as hunting, recreational shooting, and
21 competitive marksmanship participation.

22 94. Defendants cannot satisfy their burden of justifying the AWCA’s
23 restrictions on the Second Amendment right of the People, including Plaintiffs, to
24 acquire, possess, transfer, transport, and use rifles that are in common use by law-
25 abiding adults throughout the United States for the core right of defense of self and
26 home and other lawful purposes.

27 _____
28 ¹⁷ See Penal Code §§ 33210-33290, 17170 and 18 U.S.C.A. §§ 921(a)(8), 922(a)(4),
922(b)(4) (heavily restricting any “short-barreled” rifle having an overall length of
less than 26 inches).

Due Process Clause

(U.S. Const. amend. XIV)

1
2
3 95. Paragraphs 1 through 94 are realleged and incorporated herein by
4 reference.

5 96. The AWCA’s definition of “assault weapon”—whether by express
6 listing of make and model or by prohibited feature combinations—violates the Due
7 Process Clause because prohibiting the rifles and/or features targeted by the law does
8 not advance the State’s asserted justification of public safety. If anything, prohibiting
9 the features enumerated by the AWCA undermines public safety by making rifles
10 less safe and more difficult for law-abiding citizens to use for the purpose of self-
11 defense.

12 97. For example, as noted, a semiautomatic, centerfire rifle with a
13 detachable magazine with “Colt AR-15” engraved on it that does not have a “pistol
14 grip” or “flash suppressor” and has a fixed (non-adjustable) stock is still an “assault
15 weapon,” while a rifle in the same configuration with “Illegal Assault Weapon”
16 engraved on it is not. And a rifle marked “Illegal Assault Weapon” could legally
17 have a “detachable magazine” and not be an “assault weapon,” as long as it does not
18 have other restricted features, while the rifle marked “Colt AR-15” could have a
19 fixed magazine and would still be an “assault weapon.”

20 98. Likewise, there is no legitimate basis for banning rifles that have the
21 statutorily enumerated features in combination with a non-fixed magazine while
22 permitting rifles that have the very same statutorily enumerated features in
23 combination with a fixed magazine rifle.

24 99. These distinctions do not advance any legitimate government objective,
25 let alone do so in a sufficiently meaningful manner. And they are particularly
26 offensive under the Due Process Clause because they apply retroactively to eliminate
27 property rights that existed at the time the rifles were lawfully purchased.

28 ///

Takings Clause

(U.S. Const. amends. V and XIV)

1
2
3 100. Paragraphs 1 through 99 are realleged and incorporated herein by
4 reference.

5 101. The AWCA severely constrains the right of owners of rifles covered by
6 the law to transfer their lawfully acquired property during their lifetimes, and
7 completely abrogates their right to devise their property to their children or heirs.
8 Rifle owners who wish to keep their property in-state and within their family instead
9 must physically surrender the rifles to the government without compensation, or to a
10 very small category of people to whom the government has issued permits to own
11 dangerous weapons.

12 102. By severely constraining Plaintiffs' property rights in their rifles during
13 their lifetimes, and completely destroying an essential and long-lasting property right
14 by requiring surrender of those rifles without government compensation upon their
15 death, the AWCA effects both a regulatory and a physical appropriation of private
16 property without just compensation, in violation of the Takings Clause.

PRAYER

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18 Plaintiffs pray that the Court:

19 1. Enter a declaratory judgment under 28 U.S.C. § 2201 that California
20 Penal Code sections 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F), 30515(a)(3),
21 30520, 30600, 30605, 30925, and 30945, as well as California Code of Regulations,
22 title 11, section 5499, are each unconstitutional facially and to the extent they apply
23 to "assault weapons" or, alternatively, to the extent they prohibit any semi-
24 automatic, centerfire rifle with a detachable magazine having a "pistol grip," "flash
25 suppressor," "thumbhole stock," or "telescoping" stock, or any semi-automatic,
26 centerfire rifle that is over 26 inches in overall length, because such provisions
27 unlawfully infringe on the right of the People to keep and bear arms that are in
28 common use contemporarily, in violation of the Second and Fourteenth

1 Amendments to the United States Constitution; arbitrarily deprive Plaintiffs of
2 protected property interests und the Due Process Clause; and unconstitutionally take
3 property without compensation in violation of the Takings Clause;

4 2. Issue an injunction enjoining Defendants and their officers, agents, and
5 employees from enforcing any provisions of California Penal Code sections
6 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F), 30515(a)(3), 30520, 30600, 30605,
7 30925, 30945, and California Code of Regulations, title 11, section 5499,
8 prohibiting “assault weapons” or, alternatively, to the extent they prohibit the
9 acquisition, possession, or transfer of any semi-automatic, centerfire rifle with a
10 detachable magazine having a “pistol grip,” “flash suppressor,” “thumbhole stock,”
11 or “telescoping” stock, or any semi-automatic, centerfire rifle that is over 26 inches
12 in overall length;

13 3. Award remedies available pursuant to 42 U.S.C. § 1983 and all
14 reasonable attorneys’ fees, costs, and expenses under 42 U.S.C. § 1988, or any other
15 applicable law; and

16 4. Grant any such other and further relief as the Court may deem proper.

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18 Dated: April 24, 2017

MICHEL & ASSOCIATES, P.C.



C. D. Michel
Attorney for Plaintiffs

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