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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
WADDELL, CALIFORNIA RIFLE &
PISTOL ASSOCIATION,
INCORPORATED, a California
corporation,

Plaintiffs,

v.

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

Defendants.

Case No: 17-cv-1017-BEN-JLB

**DECLARATION OF JAMES
CURCURUTO IN SUPPORT OF
PLAINTIFFS’ MOTION FOR
PRELIMINARY INJUNCTION;
EXHIBIT D**

Date: June 13, 2017
Time: 10:00 a.m.
Dept: 5A
Judge: Hon. Roger T. Benitez

DECLARATION OF JAMES CURCURUTO

1
2 1. I, James Curcuruto, am not a party in the above-titled action. I am over the age
3 of 18, have personal knowledge of the facts and events referred to in this Declaration, and
4 am competent to testify to the matters stated below.

5 2. I am the Director, Industry Research and Analysis, at the National Shooting
6 Sports Foundation (“NSSF”). The NSSF is the trade association for the firearms
7 industry. Its mission is to promote, protect and preserve hunting and the shooting sports.
8 Formed in 1961, NSSF has a membership of 12,000 manufacturers, distributors, firearms
9 retailers, shooting ranges, sportsmen’s organizations and publishers.

10 3. In my position as Director, Industry Research and Analysis, I am responsible
11 for most of the industry research activities at NSSF, and I direct the activities of an
12 internal research coordinator as well as outside companies retained to conduct research
13 and gather market and consumer information useful to NSSF members.

14 4. Many NSSF members manufacture, distribute and/or sell firearms and
15 shooting and hunting-related goods and services, and as is usual and customary for trade
16 associations, the NSSF collects and disseminates industry-specific, non-sensitive data
17 reflecting consumer preferences, market trends and other information for use in their
18 business decisions. Among the shooting and hunting-related goods and services
19 manufactured, distributed and sold by NSSF members are ammunition
20 magazines.¹ Research conducted by the NSSF and under my direction demonstrates that
21 detachable ammunition magazines are very popular and are commonly owned by
22 millions of persons in the United States for a variety of lawful purposes, including, but
23

24
25 ¹ A “magazine” is a receptacle for a firearm that holds a plurality of cartridges or
26 shells under spring pressure preparatory for feeding into the chamber.
27 <http://saami.org/glossary/display.cfm?letter=M>, Glossary of Terms, Sporting
28 Arms and Ammunition Manufacturers’ Institute (SAAMI). While magazines take
many forms – box, drum, rotary, tubular, etc. and may be fixed or removable –
from the materials I considered and firearms industry professionals I consulted, the
figures discussed in this declaration generally (if not exclusively) concern detachable,
box magazines.

1 not limited to, recreational and competitive target shooting, home defense, collecting and
2 hunting.

3 5. In addition to ammunition magazines accompanying firearms that utilize
4 them at the time of sale, such magazines are also widely available for sale as a stand-
5 alone item to individuals who need a replacement, different-capacity, and/or additional
6 magazines.

7 6. I am not aware of any singular public source providing reliable figures
8 identifying exactly how many ammunition magazines are manufactured or imported for
9 sale within the United States each year. There are, however, data available to me from
10 which estimations of the amount of magazines that have been sold to the general
11 population, as well as how many of those have a capacity for ammunition exceeding ten
12 rounds, can be calculated within a reasonable degree of certainty.

13 7. Using such data, I have, in the normal scope of my duties on behalf of the
14 NSSF, calculated estimations of the total number of magazines possessed by consumers
15 in the United States, as well as how many of those have a standard capacity for
16 ammunition exceeding ten rounds. These estimations are published in the NSSF®
17 Magazine Chart attached as Exhibit "D."

18 8. The NSSF® Magazine Chart estimates that 230 million pistol and rifle
19 magazines were in the possession of United States consumers between 1990 and
20 2015. The data supporting the Report further shows magazines capable of holding more
21 than 10 rounds of ammunition accounted for approximately 115 million or approximately
22 half of all magazines owned.

23 9. Sources used to compile the NSSF® Magazine Chart include the Bureau of
24 Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms Manufacturers and
25 Exports Reports (AFMER), U.S. International Trade Commission (ITC), as well as,
26 opinions of firearms industry professionals. To prepare the NSSF® Magazine Chart,
27 only the number of pistols and rifles were used while revolver and shotgun data was
28 excluded as revolvers and the vast majority of shotguns do not utilize magazines.

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3 **UNITED STATES DISTRICT COURT**
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7 MARGUGLIO, CHRISTOPHER
8 WADDELL, CALIFORNIA RIFLE &
9 PISTOL ASSOCIATION,
10 INCORPORATED, a California
11 corporation,

12 Plaintiffs,

13 v.

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

17 Defendant.

Case No: 17-cv-1017-BEN-JLB

CERTIFICATE OF SERVICE

18 IT IS HEREBY CERTIFIED THAT:

19 I, the undersigned, declare under penalty of perjury that I am a citizen of the
20 United States over 18 years of age. My business address is 180 E. Ocean Boulevard,
21 Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

22 I have cause service of the following documents, described as:

23 **DECLARATION OF JAMES CURCURUTO IN SUPPORT OF**
24 **PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION PLAINTIFFS'**
25 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION**

26 on all parties by placing a copy in a separate envelope, with postage fully prepaid, for
27 each address named below and depositing each in the U.S. Mail at Long Beach, CA, on
28 May 26, 2017.

Ms. Alexandra Robert Gordon
Mr. Anthony P. O'Brien
California Department of Justice
1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed
on May 26, 2017, at Long Beach, CA.


Laura Palmerin