

1 C.D. Michel – SBN 144258  
Sean A. Brady – SBN 262007  
2 Anna M. Barvir – SBN 268728  
Matthew D. Cubeiro – SBN 291519  
3 MICHEL & ASSOCIATES, P.C.  
180 E. Ocean Boulevard, Suite 200  
4 Long Beach, CA 90802  
Telephone: (562) 216-4444  
5 Facsimile: (562) 216-4445  
Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs  
7

8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 VIRGINIA DUNCAN, RICHARD  
11 LEWIS, PATRICK LOVETTE, DAVID  
MARGÜGLIO, CHRISTOPHER  
12 WADDELL, CALIFORNIA RIFLE &  
PISTOL ASSOCIATION,  
13 INCORPORATED, a California  
corporation,

14 Plaintiffs,

15 v.

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

18 Defendants.  
19

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

**SUPPLEMENTAL DECLARATION  
OF ANNA M. BARVIR IN SUPPORT  
OF PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION;  
EXHIBIT NNN**

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

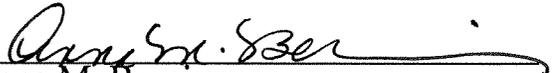
**DECLARATION OF ANNA M. BARVIR**

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1. I am an attorney at the law firm Michel & Associates, P.C., attorneys of record for Plaintiffs in this action. I am licensed to practice law before the United States District Court for the Southern District of California. I am also admitted to practice before the Eastern, Central, and Northern Districts of California, the courts of the state of California, the Supreme Court of the United States, and the D.C., Fourth, Ninth, and Tenth Circuit Courts of Appeals. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, could and would testify competently thereto.

2. Attached hereto as Exhibit "NNN" is a true and correct copy of excerpts from the February 3, 2014 deposition of Dr. Christopher S. Koper in the matter of *Tardy v. O'Malley*, United States District Court, District of Maryland, Case No. CCB-13-2841.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on June 9, 2017.

  
Anna M. Barvir  
Declarant

**EXHIBIT NNN**

**In The Matter Of:**

*Shawn J. Tardy, et al. vs.  
Martin J. O'Malley, et al.*

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*Christopher S. Koper, Ph.D.*

*Vol. 1*

*February 3, 2014*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Northern Division)

SHAWN J. TARDY, et al.

Plaintiffs

Case No.

vs.

1:13-cv-02841-CCB

MARTIN J. O'MALLEY, et al.

Defendants

\_\_\_\_\_ /

The deposition of CHRISTOPHER S. KOPER,  
PH.D. was held on Monday, February 3, 2014, commencing  
at 1:48 p.m., at George Mason University, Research  
Hall, 4400 University Drive, Fairfax, Virginia 22030,  
before Amanda J. Curtiss, CSR, Notary Public.

REPORTED BY: Amanda J. Curtiss, CSR

1 APPEARANCES:

2

3

ON BEHALF OF THE PLAINTIFFS:

4

JOHN PARKER SWEENEY, ESQUIRE

5

JAMES W. PORTER, III, ESQUIRE

6

MARC A. NARDONE, ESQUIRE

7

Bradley, Arant, Boult, Cummings, LLP

8

1615 L Street, NW, Suite 1350

9

Washington, DC 20036

10

Telephone: 202-719-8216

11

Facsimile: 202-719-8316

12

Email: jsweeney@babco.com

13

14

ON BEHALF OF DEFENDANT, MARTIN J. O'MALLEY:

15

MATTHEW J. FADER, ESQUIRE

16

Maryland Office of the General Attorney

17

200 Saint Paul Place, 20th Floor

18

Baltimore, Maryland 21201

19

Telephone: 410-576-7906

20

Facsimile: 410-576-6955

21

Email: mfader@oag.state.md.us

1 more new permits. You would have to get one that's  
2 already existing somehow.

3 Q So I could -- I could purchase one from  
4 somebody whose already owned?

5 A Correct. If -- if you went through all the  
6 proper procedures and background checks.

7 Q All right. But I couldn't do that with  
8 respect to a semi-automatic long gun that's banned in  
9 Maryland?

10 A You would -- you could keep the one that  
11 you have right now, but you wouldn't be able to  
12 transfer it, no.

13 Q Right. But I could if I jumped through the  
14 right hoops get myself a machine gun; correct?

15 A Well, you know, Maryland legislatures and  
16 the federal -- federal legislatures have different  
17 considerations, different ways they chose to approach  
18 the issue.

19 Q Right. And so the federal government never  
20 actually banned machine guns?

21 A In a strict sense, that's perhaps true, but

1 they very heavily regulate them and restrict them.

2 Q Understood. We wouldn't want them falling  
3 into criminal hands, would we?

4 A No.

5 Q Are you an expert in ballistics?

6 A I have some general knowledge. I -- I  
7 should hesitate to call myself an expert, per se.

8 Q All right. And while you're an expert in  
9 firearms policy, are you an expert in firearms?

10 A How do you mean?

11 Q Technical aspects of firearms, for  
12 instance.

13 A I have a limited basic working knowledge.  
14 Of course in doing the assault weapons work, I had to  
15 learn a lot about different makes and models and their  
16 features. I'm not the sort of person who could take  
17 apart a firearm for you and put it back together.

18 Q You are not?

19 A No.

20 Q Do you own any firearms?

21 A No.

1 Q Have you ever owned any firearms?

2 A No.

3 Q Have you fired firearms?

4 A Yes.

5 Q When did you do that?

6 A In the -- I was in a police lab and I fired  
7 some firearms before.

8 Q And when was that?

9 A Several years back.

10 Q And where was that?

11 A I remember firing some guns in a lab in  
12 Kansas City. I'm not sure if I've been any place else,  
13 but I remember that one.

14 Q All right. And what firearms did you fire  
15 at the police lab in Kansas City?

16 A Some different handguns.

17 Q And do you recall what makes and models you  
18 fired?

19 A Not clearly, no.

20 Q Do you recall if you fired revolvers?

21 A Yeah, there was one revolver and at least

1 MR. SWEENEY: All right. Let's pull out  
2 the 2004 article. Let's mark this as the next exhibit.  
3 I think we're finally at five.

4 (Koper Exhibit 5 was marked for  
5 identification.)

6 (Off the record.)

7 BY MR. SWEENEY:

8 Q Let's go back on the record.

9 On page 81 of your 2004 report that we've  
10 marked as Koper Exhibit 5, you state your conclusions  
11 with respect to the effect of the assault weapon and  
12 large capacity magazine federal ban; correct?

13 A Are you referring to the first full  
14 paragraph?

15 Q Yes, I am.

16 A That's a partial statement of it, yes.

17 Q All right. And you state there quote,  
18 "Because offenders can substitute non-banned guns and  
19 small magazines for banned AWs and LCMS," meaning  
20 assault weapons and large capacity magazines?

21 A Correct.

1 Q "There is not a clear rationale for  
2 expecting the ban to reduce assaults and robberies with  
3 guns." Am I reading that correctly?

4 A Yes.

5 Q And that correctly and accurately state  
6 your conclusion with respect to the impact on  
7 firearm-related crime of the federal ban on assault  
8 weapons and large capacity magazines; correct?

9 A That's a partial statement of it.

10 Q All right. But -- but accurate in and of  
11 itself?

12 A Yes.

13 Q Okay. And when you say you would not  
14 expect the assault weapon or large capacity magazine  
15 ban to reduce assaults with guns, that would include  
16 assaults leading to homicides; correct?

17 A Not exactly. What I'm saying here is I  
18 don't expect the overall level of assaultive violence  
19 with guns to change whether or not these guns and  
20 magazines are available, but what I am hypothesizing is  
21 that changes in the use of these guns and magazines

1 could affect the share of attacks that involve -- that  
2 result in injuries or deaths.

3 Q But -- but they -- you would not expect a  
4 ban on assault weapons or large capacity magazines to  
5 actually reduce the number of firearm-related assaults  
6 or robberies; correct?

7 A Correct.

8 Q And you would not expect a ban on assault  
9 weapons or large capacity magazines to reduce  
10 firearm-related home invasions; correct?

11 A No. Correct, I mean.

12 Q And you wouldn't expect a ban on assault  
13 weapons or large capacity magazines to reduce the  
14 number of firearms assaults on police officers;  
15 correct?

16 A Correct. That's fair enough.

17 Q On note 95 on that page, you address I  
18 believe state bans on assault weapons in which you say,  
19 "A few studies suggest that state-level assault weapon  
20 bans have not reduced crime." Am I reading that  
21 correct?

1 A Yes.

2 Q And is that still your view today?

3 A I've not seen any further studies of this  
4 yet, but yes, I mean, essentially that's the  
5 conclusion.

6 Q All right.

7 A With the qualifiers that are stated in the  
8 rest of the footnote.

9 Q Let's mark this as Exhibit 6, please. Let  
10 me show you what I've marked as Exhibit 6, which is an  
11 article authored by Mark Gius, G-I-U-S, on an  
12 examination of the effects of concealed weapon laws and  
13 assault weapons bans on state-level murder rates.

14 (Koper Exhibit 6 was marked for  
15 identification.)

16 A Okay.

17 Q And I first ask you are you familiar with  
18 this article?

19 A No. I've not read this.

20 Q And has anyone mentioned this to you?

21 A Defense counsel did mention the existence

1 of this.

2 Q All right. And this appeared in Applied  
3 Economics Letters; right?

4 A Okay.

5 Q And is that a peer reviewed journal, to  
6 your knowledge?

7 A I don't know.

8 Q All right. And, you know, do you make it  
9 your business to keep up with the literature on the  
10 impact of firearms bans?

11 A I try to. How extensively I'm engaged in  
12 that research might ebb and flow a little bit depending  
13 on what exactly I'm working on at that time, so I see  
14 this article, for example, just came out in last  
15 November so that's quick to keep up with.

16 Q All right. And my reading of this, and I  
17 appreciate if you just put it in front of you, is that  
18 it concludes using data for the period I believe 1980  
19 to 2009 that state-level assault weapons bans did not  
20 reduce state-level murder rates. And that would be  
21 consistent with the prior studies in your footnote 95

1 matters as much or more than statistical significance.

2 Q All right. And above that -- no,  
3 nevermind. Scratch that.

4 Turning back to your 2004 study, did you  
5 have anything in here on the impact on homicide rates  
6 of the federal assault weapons and large capacity  
7 magazine ban?

8 A We did a few things here that were a bit  
9 tentative. As I said, the analysis of the key initial  
10 intermediate outcome measures showed mixed results. So  
11 we saw that there was a reduction in the use of assault  
12 weapons, but not clearly a reduction yet in the use of  
13 guns with large capacity magazines. So any further  
14 analysis of impacts on measures like of injuries and  
15 deaths was going to be ambiguous and somewhat  
16 problematic, but nonetheless I did put together a few  
17 basic trend lines for descriptive purposes looking at  
18 some measures that I thought might potentially be  
19 affected by ups and downs in the use of assault weapons  
20 and large capacity magazines. So I was looking at a  
21 few different things like the percentage of violent gun

1 crimes resulting in death. I think the percentage of  
2 gunshot victimizations resulting in death. I also  
3 summarized in chapter nine of this report some of the  
4 other findings that we had had in the '97 report when  
5 we had looked at some different similar types of  
6 outcome measures.

7 Q On page 96 of your 2004 report marked as  
8 Exhibit 5, that's your summary of your conclusions;  
9 correct?

10 A Yes.

11 Q And in the third sentence you state, "There  
12 has been no discernable reduction in the lethality and  
13 injuriousness of gun violence," is that correct?

14 A Yes.

15 Q And is that still your view today based  
16 upon your study and analysis of the impact of the  
17 federal ban on assault weapons and large capacity  
18 magazines?

19 A Yes. Based on the data that I analyzed,  
20 it's still my view of it. Again, subject to the  
21 qualifications that I noted earlier.

1           Q           All right. And are you aware of anyone  
2 else's data with respect to studying the impact of the  
3 federal ban on assault weapons and large capacity  
4 magazines that reached a conclusion different from the  
5 conclusion that you state here?

6           A           No.

7           Q           Would you agree with me that the government  
8 interest to be served by the federal assault weapon ban  
9 and large capacity magazine ban was the reduction of  
10 firearm-related violence; correct?

11          A           You could view it that way or you could  
12 view it more specifically as trying to get a reduction  
13 in shootings in incidents with high numbers of shots  
14 fired. And so, you know, again, I tended to view --  
15 judge this more specifically in terms of effects on gun  
16 injuries and gun deaths. As I noted in the report,  
17 given the trends in use of assault weapons and large  
18 capacity magazines that had been observed to that  
19 point, I felt it was actually premature to make any  
20 definitive conclusions about the ban's effects on gun  
21 deaths and injuries. I felt that the effects of the

1 ban were still unfolding at that time and might still  
2 take a while to fully unfold.

3 Q Isn't it true that as you sit here today,  
4 you cannot conclude with a reasonable degree of  
5 scientific probability that the federal ban on assault  
6 weapons and large capacity magazines reduced crimes  
7 related to guns?

8 A Correct.

9 Q And it didn't reduce the number of deaths  
10 or injuries caused by guns either; correct?

11 A Correct.

12 Q Returning to your report for a moment,  
13 Professor. I lost my copy of.

14 On paragraph five at the top of page two  
15 you say, "Based on my research, I found, among other  
16 things, that assault pistols" --

17 A I'm sorry. Could you clarify for me?

18 Q I'm sorry. Page two.

19 A Page two. Got you.

20 Q Paragraph five.

21 A Uh-huh.

1 Q Under "Summary of Findings."

2 A Okay.

3 Q You state, "Based on my research, I found,  
4 among other things, that assault pistols are used  
5 disproportionately in crime in general, and that  
6 assault weapons more broadly were disproportionately  
7 used in murder and other serious crimes in some  
8 available data sources," correct?

9 A Yes.

10 Q Let's see if we can pull that apart so I  
11 can understand what you're saying here. Now, how do  
12 you define assault pistols?

13 A Handguns that have the military style  
14 features qualifying as assault weapons.

15 Q And would you agree with me that they  
16 became popularly used by criminals in connection with  
17 the so-called crack epidemic of the 1980s?

18 A I don't know that I can make a statement  
19 that specific. I can say that, I mean, there are  
20 statistics in the report on how widely they were used  
21 in crime. Generally assault weapons accounted for a

1 and considering mass shootings by the number of people  
2 shot as opposed to the number of people killed --

3 A Uh-huh.

4 Q -- and if you assume four or more, can you  
5 state to a reasonable degree of scientific probability  
6 based upon the evidence available to you that banning  
7 assault rifles will reduce the number of incidents of  
8 mass shootings?

9 A I can't say that based -- I mean, I can't  
10 make a firm projection of that based on any particular  
11 available data. There might be data to suggest that  
12 there could be some reduction in that, but it's hard to  
13 really clearly project what that would be or how  
14 difficult it might be to detect statistically.

15 Q We have to work with a legal standard for  
16 expert opinion in the reasonable probability range.

17 A Uh-huh.

18 Q I'm not sure in the legal context what, you  
19 know, firm means as you mean it, but I'm trying to  
20 understand whether you can state your opinion to a  
21 reasonable degree of scientific probability that

1 banning assault rifles would reduce the incidents of  
2 public shootings, mass shootings.

3           A           Again, I mean, all I can say is attacks  
4 with those sorts of weapons tend to result in more  
5 victims being hit, so it stands to some reason that if  
6 you reduced the use of these types of weapons, it could  
7 reduce the tallies of victims hit in these incidents.  
8 And it's not actually just a matter of the mass  
9 shooting incidents. It's also a matter of incidents  
10 with high numbers of shots fired, regardless of how  
11 many people get hit. So that has to be taken into  
12 account as well.

13                       And I've tended to focus more on that issue  
14 in my research, you know, going back to the Jersey City  
15 data, for example, that suggested that about five  
16 percent of gunshot victimization stemmed from incidents  
17 with more than ten shots fired. And so based on that,  
18 one might project a small percentage reduction in  
19 shootings overall from this type of legislation.

20           Q           Do you have your publication of your  
21 New Jersey data? Did you publish that?

1           A           Yes. Uh-huh.

2           Q           And when we looked at your CV, I know we  
3 talked about it briefly, and is this the Reedy and  
4 Koper 2003 article?

5           A           Yes.

6           Q           How many incidents did you study that  
7 involved more than ten shots being fired?

8           A           In the sample that we had, I believe there  
9 were something like maybe six incidents that involved  
10 more than ten shots fired.

11          Q           And do you recall what the base was of  
12 total incidents?

13          A           It's in the -- it's in the study.

14          Q           Why don't we mark this since we're going to  
15 be talking about it? Exhibit 9.

16                   (Koper Exhibit 9 was marked for  
17 identification.)

18                   MR. FADER: And John, maybe in the next  
19 five minutes if we can take a little water break.

20                   MR. SWEENEY: Now. Let's break right now.

21                                   (Off the record.)

1 BY MR. SWEENEY:

2 Q Back on the record.

3 While we were on the break, I tried to  
4 focus myself on the portions of your 2003 study which  
5 we have marked as Exhibit 9. First of all, it appears  
6 that there were some -- well, if I look at the data  
7 tables that you have on page 153 of Exhibit 9, figure  
8 one involves assault incidents with a semi-automatic  
9 pistol; correct?

10 A Yes.

11 Q And you had 239 of those; right?

12 A Yes.

13 Q How many of those involved more than ten  
14 shots being fired? Where would I find that number?

15 A That would be on page 154 on table one. We  
16 had -- one column has minimum shots fired estimates,  
17 the other has maximum shots fired estimates if there  
18 happened to be a range in the data.

19 Q Am I correct in interpreting this that it's  
20 six out of approximately 165 pistol incidents in which  
21 more than ten shots were fired?

1 A Yes.

2 Q So that's roughly 3.6 percent? Does that  
3 sound about right to you?

4 A Yes.

5 Q Okay. Let me see if I can understand this  
6 study a little bit more. Going back to page 153 figure  
7 one, outcomes of assault incidents involving  
8 semi-automatic pistols, you state handgun type was not  
9 associated with attack outcomes; correct?

10 A In this categorical tree, that's correct.

11 Q All right. So regardless of whether  
12 someone was using a semi-automatic pistol or a  
13 revolver, there was no difference in the outcome be it  
14 injury or death?

15 A Overall for the incident, yes.

16 Q All right. And immediately below figure  
17 two you state, "Although pistol cases involved higher  
18 numbers of shots, they were not significantly more  
19 likely to result in injuries either fatal or nonfatal  
20 than were revolver cases," is that correct?

21 A Yes. I think what we're talking about

1 there is when you're looking at the likelihood that a  
2 gunfire incident resulted in any victimization, you  
3 know, any injury, I think there was no significant  
4 difference there. We did find a difference in the  
5 number of people who are wounded.

6 Q On the right-hand column, second full  
7 paragraph you state, "Finally, figures one and two show  
8 that gunshot injury incidents involving pistols were  
9 less likely to produce a death than were those  
10 involving revolvers," correct?

11 A Yes.

12 Q Had you differentiated between pistols with  
13 large capacity magazines and those without large  
14 capacity magazines here?

15 A There was only limited data on that, so we  
16 couldn't examine that in a great deal of depth.

17 Q So is it fair to say that based upon the  
18 data in this study, pistols involving larger capacity  
19 magazines were less likely to produce a death than were  
20 those involving revolvers?

21 A I wouldn't necessarily say that. It would

1 depend. You'd have to look specifically at the cases  
2 where a large capacity magazine was involved.

3 Q All right. But we don't really have that  
4 breakdown reliably, do we, or at least completely?

5 A Not completely.

6 Q Can you interpret the data here to support  
7 the statement that gunshot injury incidents involving  
8 pistols with large capacity magazines were more likely  
9 to produce death than were those involving revolvers?  
10 Does your data support that statement?

11 A More likely to produce death?

12 Q Yes.

13 A No. I can't say that based on what we have  
14 here.

15 Q All right. Now, under your discussion  
16 below beginning with the second sentence, you state,  
17 "Gun attackers using pistols tend to fire more shots  
18 than attackers using revolvers," correct?

19 A Yes.

20 Q And then you go on to say, "This shot  
21 differential does not appear to influence the

1 probability that an incident will result in injury or  
2 death, nor the number of wounds sustained by gunshot  
3 victims." Am I reading that correctly?

4 A Yes.

5 Q And that's the conclusion of this study;  
6 correct?

7 MR. FADER: Objection.

8 THE WITNESS: Well, that's -- yeah, that's  
9 only one conclusion. As we go on to say, offenders  
10 using pistols tend to fire -- tend to wound more  
11 persons. Also, it should be noted that while this is  
12 not reported in this particular article, for the 2004  
13 report on assault weapons we did some additional  
14 analyses of cases involving more than ten shots and  
15 those cases actually had a 100 percent injury rate.  
16 You know, at least one person was injured in all of  
17 those cases.

18 BY MR. SWEENEY:

19 Q Now, there were only a handful of such  
20 cases in this study; correct?

21 A Correct.

1 MR. FADER: Objection.

2 THE WITNESS: It's hard to -- to break  
3 down -- once again, you know, as we mentioned earlier,  
4 it's harder to break down all these specific features  
5 and describe which ones put a gun at highest risk of  
6 being used in crime, I think, other than noting that  
7 they're -- they're large capacity magazines and  
8 different aspects of their design that are designed to  
9 facilitate rapid fire.

10 BY MR. SWEENEY:

11 Q And isn't it true that criminals  
12 overwhelmingly choose handguns over long guns to commit  
13 crimes?

14 A Yes.

15 Q And your data would indicate that to the  
16 extent there's a criminal preference for using assault  
17 pistols, there isn't one evident from the evidence with  
18 respect to using assault rifles by criminals; correct?

19 MR. FADER: Objection.

20 THE WITNESS: It's not as clear. As we've  
21 discussed earlier, there are a few statistics from

1 which one might try to infer that, but the case, yeah,  
2 it's not as clear. It's fair to say.

3 BY MR. SWEENEY:

4 Q Now, in paragraph eight of your report, you  
5 state in the second sentence that Maryland's  
6 recently-enacted ban on assault weapons and large  
7 capacity magazines has the quote "potential" close  
8 quote to accomplish a couple of things; correct?

9 A Yes. Okay.

10 Q Now, when you say potential, I'm trying to  
11 understand what you mean here. Would you agree with me  
12 that any law would have the potential to produce a  
13 benefit?

14 MR. FADER: Objection.

15 THE WITNESS: Might depend on -- on what it  
16 is. In this case, you know, I'm saying potential based  
17 largely on my studies of the federal assault weapons  
18 ban and what -- what we found there.

19 BY MR. SWEENEY:

20 Q Can you state with a reasonable degree of  
21 scientific probability that the ban on assault weapons

1 and large capacity magazines in Maryland will reduce  
2 the number of crimes committed with assault weapons and  
3 other firearms with large capacity magazines?

4 A I can't put a probability on that. You  
5 know, all I can say is based on the experience with the  
6 federal assault weapons ban, that there are grounds for  
7 believing that the Maryland law could achieve that in  
8 extrapolating from the results of the federal study.  
9 Otherwise, one has to actually study the implementation  
10 of the Maryland law to begin putting, you know,  
11 probabilities on it and measuring those effects.

12 Q All right. Can you say to a reasonable  
13 degree of scientific probability that the ban on  
14 assault weapons and large capacity magazines in  
15 Maryland will reduce the number of shots fired in gun  
16 crimes?

17 A Not sure what you mean by a reasonable  
18 probability 'cause I just I can't put a probability on  
19 it and tell you how likely it is to occur.

20 Q Can you say to a reasonable degree of  
21 scientific probability that the Maryland ban on assault

1 weapons and large capacity magazines will reduce the  
2 number of gunshot victims in such crimes?

3 A Again, same answer. I can't state it with  
4 an exact probability at this time.

5 Q And if I ask you the same question with  
6 respect to number four, reduce the number of wounds per  
7 gunshot victim, and five, reduce the lethality of  
8 gunshot injuries when they do occur, and six, reduce  
9 the substantial societal costs that flow from  
10 shootings, would your answer be the same?

11 A Yes.

12 Q Okay. Now, the Maryland law does not  
13 prohibit all semi-automatic firearms; correct?

14 A Correct.

15 Q And criminals can substitute semi-automatic  
16 firearms that aren't banned; correct?

17 A Those and other guns.

18 Q Right. And isn't that variable something  
19 that you can't control and one of the reasons why you  
20 can't say to any probability whether or not the ban  
21 will accomplish the six items that you state in

1 paragraph eight of your report?

2 MR. FADER: Objection.

3 THE WITNESS: In principle, the  
4 substitution of non-banned guns and magazines has the  
5 potential to lessen the lethality and injuriousness of  
6 gun attack incidents. So I wouldn't say that the  
7 Maryland ban is going to reduce the rate of gun crime,  
8 but what I am saying is there's a possibility it could  
9 reduce shots fired, people hit, wounds inflicted, those  
10 sorts of things in attacks that -- that happen.

11 BY MR. SWEENEY:

12 Q If a particular banned assault rifle, a  
13 Colt AR-15, can readily be substituted with a Colt AR  
14 HBAR, isn't the ban unlikely to have any significant  
15 impact on the use of assault rifles in crime?

16 A Well, that one particular instance, it  
17 seems that the policy makers for whatever reason have  
18 allowed one similar variation of the AR-15 to still be  
19 legal. I don't know what all the considerations were  
20 in doing that. I suppose it was part of political  
21 bargaining. But it does raise the possibility that

1           A           Uh-huh.

2           Q           Is that because you cannot say to a  
3 reasonable degree of scientific probability?

4           A           In some of these cases, you have very small  
5 numbers of incidents. It may be hard to do say  
6 statistical significance tests. In some cases, there  
7 are statistical significance tests showing that there  
8 is a significant difference between the two sets of  
9 cases. So beyond that, it's harder to say. I mean, we  
10 don't -- we don't have randomized trials testing the  
11 impact of weapon type on attack outcomes, so there  
12 is -- there's always going to be some debate over the  
13 patterns and the correlations in the data.

14          Q           To press my point but without trying to,  
15 and please forgive me, I don't want to sound like I'm  
16 badgering you in any respect. But the limitations of  
17 the scientific data are such that you simply can't say  
18 to a reasonable degree of scientific probability that  
19 you would be able to reduce public shootings even if  
20 you were to eliminate large capacity magazines;  
21 correct?

1 MR. FADER: Objection. You can answer.

2 THE WITNESS: Again, you can't say that  
3 you'll eliminate all public shootings. What these data  
4 suggest is that you would reduce the number of victims.  
5 I can't necessarily -- it's hard to put specific  
6 probabilities on it, but that's what these data  
7 suggest. When you see some -- some of these  
8 comparisons that were done in Luke's Dillon's thesis  
9 even showed statistically significant differences  
10 between the LCM cases and the non-LCM cases, that would  
11 seem to provide some better degree of scientific  
12 certainty.

13 BY MR. SWEENEY:

14 Q But because of the availability of multiple  
15 firearms and multiple magazines that aren't large  
16 capacity, can you truly say to a reasonable degree of  
17 scientific probability that reducing the number of or  
18 even eliminating the number of large capacity magazines  
19 will reduce either the incidents of mass public  
20 shootings or the number of people injured in such  
21 public shootings?

1           A           I guess the best way to answer that would  
2           be that we'd have to -- we'd have to test that. We'd  
3           have to see a circumstance where use of large capacity  
4           magazines was significantly reduced and see what impact  
5           that has on -- on these sorts of shootings.

6           Q           And that's because we simply don't have  
7           that evidence today; correct?

8           A           We do have some evidence relevant to that.  
9           It's just how -- how far you can push it, I guess.

10          Q           Not far enough to state with a reasonable  
11          degree of scientific probability; correct?

12                   MR. FADER: Objection.

13                  THE WITNESS: Yeah, I struggle a little bit  
14          with that particular phrase because I can't put any  
15          specific probability or tell you with -- with, you  
16          know, five percent, one percent probability that there  
17          will be this change. I can simply point to the numbers  
18          that exist in these studies, and some of these  
19          differences are statistically significant differences  
20          and so it suggests in principle that if you could  
21          reduce the use of these magazines, you could get a

1 reduction.

2 BY MR. SWEENEY:

3 Q And when we're talking about the  
4 probability, in order to say more probable than not  
5 it's more than 50 percent likelihood.

6 A Uh-huh.

7 Q And I take it the evidence just doesn't  
8 support that right now?

9 MR. FADER: Objection.

10 THE WITNESS: I would be cautious in making  
11 the inferences about, you know, how certain it is that  
12 it would happen.

13 BY MR. SWEENEY:

14 Q And so you cannot say that it would be more  
15 likely than not to achieve that?

16 A Not -- I would have to see more  
17 observation. Have to see what happens.

18 Q All right. On page 13, footnote 26, you  
19 touch on this in -- this issue of a perpetrator  
20 substituting other guns for banned assault weapons, and  
21 of course that would also include substituting multiple

1 magazines for banned large capacity magazines. Isn't  
2 it likely in Maryland that a criminal who wants to  
3 commit a crime with a firearm will still do so even  
4 with the new law?

5 A Who wants to commit a?

6 Q A crime.

7 MR. FADER: Objection.

8 THE WITNESS: Would commit a crime with  
9 another weapon you're saying?

10 BY MR. SWEENEY:

11 Q Yes.

12 A Yes.

13 Q And isn't it likely that in Maryland, the  
14 law will have little or no impact on the frequency of  
15 firearm crime in general?

16 A I would say that's a reasonable inference.

17 Q Have you -- are you familiar with the Safe  
18 Streets Program?

19 A In Maryland?

20 Q Yes.

21 A Not specifically. There's a lot of

1 Commonwealth of Virginia

2 County of Fairfax:

3 I, AMANDA J. CURTISS, a Notary Public of  
4 the State of Virginia, Fairfax County, do hereby  
5 certify that the within-named witness personally  
6 appeared before me at the time and place herein set  
7 out, and after having been duly sworn by me, according  
8 to law, was examined by counsel.

9 I further certify that the examination was  
10 recorded stenographically by me and this transcript is  
11 a true record of the proceedings.

12 I further certify that I am not of counsel  
13 to any of the parties, nor in any way interested in the  
14 outcome of this action.

15 As witness my hand this 5th day of  
16 February, 2014.



17 \_\_\_\_\_  
18 Amanda J. Curtiss, CSR  
19 Notary Public

20 My Commission Expires:  
21 October 31, 2015 - #7513095

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 VIRGINIA DUNCAN, RICHARD  
4 LEWIS, PATRICK LOVETTE, DAVID  
5 MARGUGLIO, CHRISTOPHER  
6 WADDELL, CALIFORNIA RIFLE &  
7 PISTOL ASSOCIATION,  
8 INCORPORATED, a California  
9 corporation,

10 Plaintiffs,

11 v.

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

15 Defendant.

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

**CERTIFICATE OF SERVICE**

16 IT IS HEREBY CERTIFIED THAT:

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

20 I have caused service of the following documents, described as:

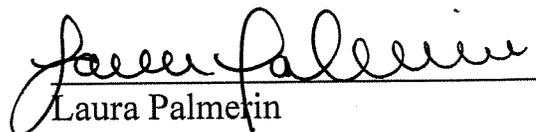
21 **SUPPLEMENTAL DECLARATION OF ANNA M. BARVIR IN SUPPORT OF**  
22 **PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; EXHIBIT NNN**

23 on the following parties by electronically filing the foregoing on June 9, 2017, with the  
24 Clerk of the District Court using its ECF System, which electronically notifies them.

25 Ms. Alexandra Robert Gordon  
26 Deputy Attorney General  
27 [alexandra.robertgordon@doj.ca.gov](mailto:alexandra.robertgordon@doj.ca.gov)  
28 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004

Mr. Anthony P. O'Brien  
Deputy Attorney General  
[anthony.obrien@doj.ca.gov](mailto:anthony.obrien@doj.ca.gov)  
1300 I Street, Suite 125  
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed  
on June 9, 2017, at Long Beach, CA.

  
Laura Palmatin