

SEILER EPSTEIN ZIEGLER & APPEGATE LLP
Attorneys at Law

1 George M. Lee (SBN 172982)
Douglas A. Applegate (SBN 142000)
2 **SEILER EPSTEIN ZIEGLER & APPEGATE LLP**
601 Montgomery Street, Suite 2000
3 San Francisco, California 94111
Phone: (415) 979-0500
4 Fax: (415) 979-0511

5 Raymond M. DiGuseppe (SBN 228457)
LAW OFFICES OF RAYMOND MARK DIGUISEPPE, PLLC
6 4002 Executive Park Blvd., Suite 600
Southport, NC 28461
7 Phone: (910) 713-8804
Fax: (910) 672-7705

8 Attorneys for Plaintiffs
9 WILLIAM WIESE, JEREMIAH MORRIS,
LANCE COWLEY, SHERMAN MACASTON,
10 ADAM RICHARDS, CLIFFORD FLORES,
L.Q. DANG, FRANK FEDEREAU, ALAN NORMANDY,
11 TODD NIELSEN, THE CALGUNS FOUNDATION,
FIREARMS POLICY COALITION,
12 FIREARMS POLICY FOUNDATION,
and SECOND AMENDMENT FOUNDATION

13
14 UNITED STATES DISTRICT COURT

15 FOR THE EASTERN DISTRICT OF CALIFORNIA

16
17 WILLIAM WIESE, et al.,

18 Plaintiffs,

19 vs.

20
21 XAVIER BECERRA, in his official capacity as
Attorney General of California, et al.,

22 Defendants.
23
24

Case No. 2:17-cv-00903-WBS-KJN

**DECLARATION OF JAMES CURCURUTO IN
SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER AND
ISSUANCE OF PRELIMINARY INJUNCTION**

[FRCP 65; E.D. L.R. 231]

Date: TBD
Time: TBD
Courtroom 5
Judge: Hon. William B. Shubb

25
26 //
27 //
28 //

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 industry. Its
7 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 internal
12 research coordinator as well as outside companies retained to conduct research and gather market
13 and consumer information useful to NSSF members.

14 4. Many NSSF members manufacture, distribute and/or sell firearms and shooting
15 and hunting-related goods and services, and as is usual and customary for trade associations, the
16 NSSF collects and disseminates industry-specific, non-sensitive data reflecting consumer
17 preferences, market trends and other information for use in their business decisions. Among the
18 shooting and hunting-related goods and services manufactured, distributed and sold by NSSF
19 members are ammunition magazines. Research conducted by the NSSF and under my direction
20 demonstrates that detachable ammunition magazines are very popular and are commonly owned
21 by millions of persons in the United States for a variety of lawful purposes, including, but
22 not limited to, recreational and competitive target shooting, home defense, collecting and
23 hunting.
24

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

28 6. I am not aware of any singular public source providing reliable figures identifying

1 exactly how many ammunition magazines are manufactured or imported for sale within the
2 United States each year. There are, however, data available to me from which estimations of the
3 amount of magazines that have been sold to the general population, as well as how many of those
4 have a capacity for ammunition exceeding ten rounds, can be calculated within a reasonable
5 degree of certainty.

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

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

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

20 10. The ATF AFMER data provide historical figures for pistols by caliber (i.e., the
21 specific ammunition cartridge for which a firearm is chambered) and rifles produced in the
22 United States for consumer purchase. The ITC data provides historical figures for pistol and
23 rifles imported to and exported from the United States for consumer purchase. The total number
24 of firearms available for consumer purchase from 1990 through 2015 was calculated by adding
25 the total U.S.- production of firearms with total firearms imported and then subtracting total
26 firearms exported.

27 11. The ATF AFMER and ITC data provided estimates of approximately 67.7 million
28

1 pistols and 42.6 million rifles capable of holding a magazine were available to United States
2 consumers between 1990 and 2015. Firearms industry professionals with knowledge of the pistol
3 and rifle magazine market then allocated magazines to the totals to complete the data provided in
4 the NSSF® Magazine Chart.

5 12. It can be assumed that many more such magazines were manufactured in the
6 United States or imported to the United States for sale in the commercial marketplace both prior
7 to 1990 as well as after 2015.

8 13. While the figure of 115 million magazines with a capacity greater than 10 rounds
9 in circulation is an estimation based on extrapolation from indirect sources and cannot be
10 confirmed as unequivocally accurate, it is safe to say that whatever the actual number of such
11 magazines in United States consumers' hands is, it is in the tens-of millions, even under the most
12 conservative estimates.

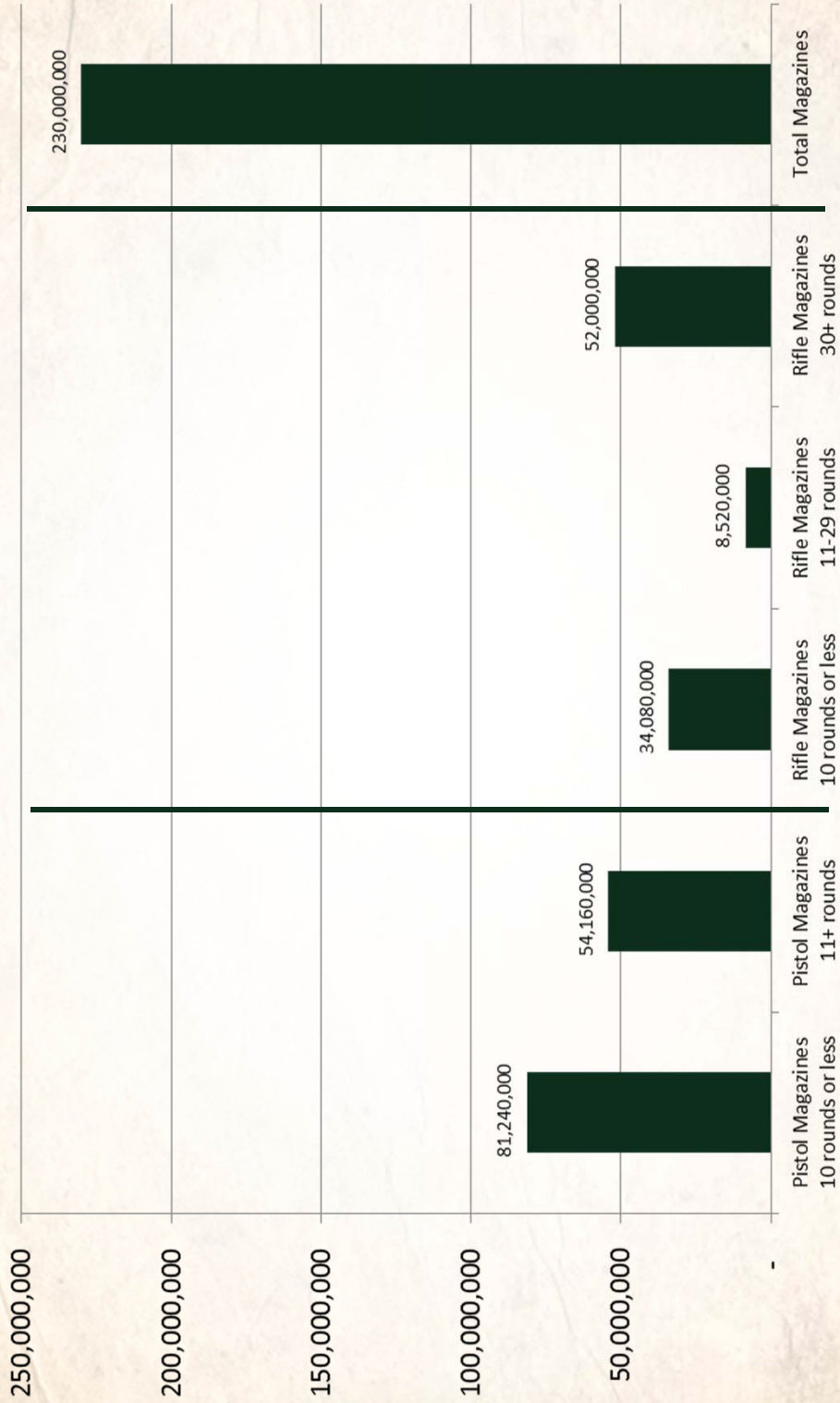
13 I declare under penalty of perjury that the foregoing is true and correct. Executed
14 within the United States on June 9, 2017.

15
16 
17 James Curcuruto
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

NSSF® Magazine Chart

Estimated 230 Million Pistol and Rifle Magazines in U.S. Consumer Possession 1990 - 2015.



Sources: ATF AFMER, US International Trade Commission figures combined with NSSF and firearms industry estimates.



NSSF.ORG