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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO
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14 **ALVIN DOE and PAUL A. GLADDEN,**

15 Plaintiffs,

16 v.

17 **KAMALA D. HARRIS, in her official**
18 **capacity as Attorney General of California;**
19 **and STEPHEN J. LINDLEY, in his official**
20 **capacity as Chief of the California**
Department of Justice Bureau of Firearms,

21 Defendants.
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Case No. 34-2014-00163821

**DECLARATION OF STEPHEN J.
LINDLEY IN SUPPORT OF
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Date: July 8, 2014
Time: 2:00 p.m.
Dept: 53
Judge: The Honorable David I. Brown
Trial Date: None
Action Filed: May 20, 2014

1 I, Stephen J. Lindley, declare as follows:

2 1. I am a defendant in this action and am the Chief of the Bureau of Firearms ("BOF")
3 within the Division of Law Enforcement, Department of Justice. I have held this position since
4 December 30, 2009. BOF is responsible for regulation and enforcement actions regarding the
5 manufacture, sale, ownership, safety training, and transfer of firearms. As the Chief, I supervise
6 and direct BOF staff who administer BOF work concerning firearms sales and transfers in the
7 State of California. I also oversee BOF staff who process Dealer's Record of Sale ("DROS")
8 transactions—the process for conducting most firearms purchases and transfers in California.

9 2. I make this declaration in support of defendants' opposition to plaintiffs' motion for
10 preliminary injunction. I have personal knowledge of the following facts and if called as a
11 witness, I could and would testify competently thereto.

12 3. I am the author of the letter dated May 8, 2014 ("Notice"), attached as Exhibit A to
13 plaintiffs' complaint. I understand that plaintiffs' motion for preliminary injunction seeks to
14 enjoin BOF from enforcing the Notice.

15 4. The Notice concerns Penal Code section 27535, subdivision (a), which prohibits any
16 person from applying to purchase more than one handgun within any 30-day period. More
17 specifically, the Notice concerns an exemption to the 30-day prohibition under Penal Code
18 section 27535, subdivision (b)(9), which exempts "[a]ny person who is licensed as a collector
19 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and
20 the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the
21 Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2."
22 The federal firearm collector license law referenced in subdivision (b)(9) extends to "curios and
23 relics" only. "Curios and relics" under federal law are firearms of special interest to collectors
24 because of some quality other than a quality associated with firearms intended for sporting use or
25 as offensive or defensive weapons. The federal curio and relic firearms license law permits
26 licensed dealers to buy and sell curio and relic firearms in multiple states not limited to the
27 dealer's residence state. Without the license, federal law would limit a dealer to purchases and
28 sales in the dealer's state of residence.

1 5. The background check conducted by the federal Bureau of Alcohol, Tobacco,
2 Firearms and Explosives ("BATFE") prior to a person receiving a curio and relic license ("C&R
3 license") is not very extensive. In sum, the BATFE simply checks its databases to determine
4 whether a person has a prohibiting offense, such as a felony conviction or is considered a "mental
5 defective" under federal law (i.e., a person who has been held on a 14-day hold pursuant to
6 Welfare and Institutions Code section 5250). And the background check conducted by BOF for
7 the issuance of a Certificate of Eligibility ("COE") (which authorizes the purchase of a single
8 firearm) is also not as extensive as the other background checks that BOF conducts for other
9 types of license. For the COE background check, BOF is only able to conduct a search of its
10 databases to determine if the person has a prohibiting circumstance, such as being a violent
11 misdemeanor, felon, subject of a restraining order, or having been held involuntarily at a mental
12 health facility (i.e., a 72-hour hold pursuant to Welfare and Institutions Code section 5150).
13 Comparatively, when BOF conducts a background check for a holder of a dangerous weapons
14 permit, a special agent interviews the applicant as well as his/her business associates, family
15 members, neighbors, and conducts an extensive search of other public records. Accordingly, the
16 background check for curios and relics does not provide more intensive scrutiny of a prospective
17 purchaser; in fact this background check is relatively superficial.

18 6. True curio and relic firearms pose less of a threat to public safety in part because of
19 their limited availability due to their expense and market demands. In addition, true curio and
20 relic firearms are not the type of weapons used by persons to commit violent crimes, and often
21 require the use of specialized ammunition that is expensive and not easily obtained in the market.
22 In contrast, the mass sale of handguns generally prohibited by Penal Code section 27535,
23 subdivision (a), poses a much more serious and imminent threat to public safety because modern
24 weapons are more reliable and can be readily accessorized with lasers, scopes, and night sights,
25 which makes the weapon more accurate and lethal. And modern weapons require the use of
26 modern ammunition, which is more powerful because it contains more powder and higher
27 pressure. Mass quantity sales of modern weapons could provide large arsenals in short order to
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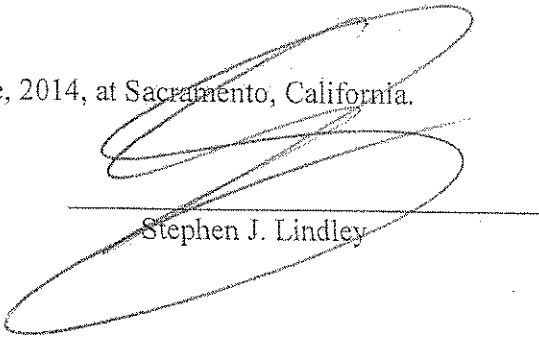
1 persons without rigorous background checks mitigating the concerns for public safety underlying
2 the 30-day prohibition.

3 7. BOF is, and has been, aware that a number of firearms dealers are selling multiple
4 handguns that are not "curios and relics" with fewer than 30-days between each handgun sale.
5 For example, DROS transactions evidence simultaneous sales of multiple mass manufactured
6 weapons, such the Glock Generation 4 semi-automatic centerfire firearm, to a single buyer who
7 possesses both a C&R and COE license. In reviewing these transactions, BOF has learned that
8 more often than not, persons using the exception under Penal Code section 27535, subdivision
9 (b)(9), do not own a collection of curio and relic handguns and are instead likely using this
10 exception to acquire mass quantities of modern handguns for resale—straw purchasing—which is
11 contrary to the express legislative intent of the 1-in-30 days law.

12 8. If plaintiffs' motion for preliminary injunction is granted, public safety will be at risk
13 because large arsenals of handguns could amass very quickly in the hands of persons likely to
14 commit crimes and whose intentions and background could bring forth the hazards Penal Code
15 section 27535, subdivision (a), was enacted to prevent.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed this 24th day of June, 2014, at Sacramento, California.

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21 _____
22 Stephen J. Lindley
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