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9

10 **IN THE UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 **MICHELLE FLANAGAN, et al.,**

14 **Plaintiffs,**

15 **v.**

16 **CALIFORNIA ATTORNEY**
17 **GENERAL XAVIER BECERRA, in**
his official capacity as Attorney
18 **General of the State of California, et**
al.,

19 **Defendants.**

Case No.: 2:16-cv-06164-JAK-AS

**DEFENDANT'S AMENDED
OBJECTIONS TO EVIDENCE
FILED IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Judge: Hon. John A. Kronstadt
Trial Date: February 6, 2018
Action Filed: August 17, 2016

Defendant Xavier Becerra, Attorney General of the State of California, sued in his official capacity (“Defendant”), submits the following amended objections to evidence filed in support of the motion for summary judgment filed by Plaintiffs Michelle Flanagan, Samuel Golden, Dominic Nardone, Jacob Perkio, and the California Rifle and Pistol Association (“CRPA”; together with the other plaintiffs herein, “Plaintiffs”). These amended objections replace the objections filed as ECF No. 56. The initial objections did not comply with this Court’s Initial Standing Order for Civil Case. The current objections have been amended as to form only.

DECLARATION OF RICK TRAVIS (ECF No. 48-6)	OBJECTION	COURT’S RULING
<p>¶ 1. I, Rick Travis, am the Executive Director for Plaintiff CALIFORNIA RIFLE & PISTOL ASSOCIATION, INCORPORATED (hereafter “CRPA”). I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.</p> <p>¶ 2. CRPA is a non-profit membership and donor-supported organization classified under 501(c)(4) [sic] and incorporated under the laws of California with its headquarters in Fullerton, California.</p>		

1	¶ 3. Founded in 1875, the		
2	CRPA seeks to defend the		
3	Second Amendment and		
4	advance laws that protect		
5	the rights of individual		
6	citizens. CRPA works to		
7	preserve the constitutional		
8	and statutory rights of gun		
9	ownership, including the		
10	right to self-defense,		
11	the right to hunt, and the		
12	right to keep and bear		
13	arms. CRPA is also		
14	dedicated to promoting the		
15	shooting sports, providing		
16	education, training, and		
17	organized competition		
18	for adult and junior		
19	shooters.		
20	¶ 4. CRPA's members		
21	include law enforcement		
22	officers, prosecutors,		
23	professionals, firearm		
24	experts, and members of		
25	the public of all law-		
26	abiding individuals,		
27	including the fundamental		
28	right to "bear" or "carry"		
	firearms for the core		
	lawful purpose of self-		
	defense.		
	[Objections 1 & 2] ¶ 5. I	1. Lacks foundation/personal	1. Sustained /
	am informed and aware	knowledge. Fed. R. Evid. 602.	Overruled
	that law-abiding CRPA	2. Hearsay. Fed. R. Evid. 801.	2. Sustained /
	members who reside in Los		Overruled
	Angeles County applied for		
	Carry Licenses to carry a	Declarations made on	
	firearm for self-defense	information and belief, not	
	and were denied.	personal knowledge, are entitled	

1		to little or no weight on a	
2		motion for summary judgment,	
3		where the declarant lacks	
4		personal knowledge. <i>Bank</i>	
5		<i>Melli Iran v. Pahlavi</i> , 58 F.3d	
6		1406, 1412 (9th Cir. 1995)	
7		(discussing declaration of	
8		counsel); <i>HTS, Inc. v. Boley</i> ,	
9		954 F. Supp. 2d 927, 951 (D.	
10		Ariz. 2013) (discussing	
11		declaration of witness); <i>accord</i>	
12		<i>Shakur v. Schriro</i> , 514 F.3d	
13		878, 890 (9th Cir. 2008)	
14		(holding “insufficient”	
15		affidavits that are conclusory	
16		and not based on personal	
17		knowledge); <i>see also</i>	
18		Fed.R.Civ.P. 56(e) (discussing	
19		potential negative consequences	
20		to party seeking summary	
21		judgment yet failing to support	
22		assertion of fact).	
23			
24		Where a declarant was not	
25		personally involved in the	
26		matters at issue, did not	
27		personally review records	
28		regarding such matters, and	
		instead relies on unsworn out-	
		of-court statements by	
		unidentified persons, and the	
		source of these persons’	
		information is unclear, the	
		declaration is based on	
		inadmissible hearsay. <i>See Block</i>	
		<i>v. City of Los Angeles</i> , 253 F.3d	
		410, 419 (9th Cir. 2001).	
		Travis conveys the alleged	
		statements of third parties	
		unidentified by name, and does	

1		not state or explain how Travis became informed of the statements.	
2			
3			
4	[Objections 3 & 4] ¶ 6. I am informed that law-abiding CRPA members who reside in Los Angeles County wish to obtain a Carry License, but refrain from applying and wasting their time and financial resources given that such application would be futile in light of Los Angeles County Sheriff James McDonnell's official "good cause" policy.	3. Lacks foundation/personal knowledge. Fed. R. Evid. 602. 4. Hearsay. Fed. R. Evid. 801.	3. Sustained / Overruled 4. Sustained / Overruled
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14	[Objections 5 & 6] ¶ 7. I know members of Plaintiff CRPA desire and intend to exercise their constitutional right to carry a firearm in public for self-defense, but they are precluded from doing so because they are unable to obtain a license to carry a firearm and California law generally prohibits them from carrying a firearm in any manner openly or concealed, without such a license.	5. Lacks foundation/personal knowledge. Fed. R. Evid. 602. 6. Hearsay. Fed. R. Evid. 801.	5. Sustained / Overruled 6. Sustained / Overruled
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25	[Objections 7 & 8] ¶ 8. But for California's comprehensive restrictions on the public carriage of	7. Lacks foundation/personal knowledge. Fed. R. Evid. 602.	7. Sustained / Overruled
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1 2 3 4 5 6 7 8 9	firearms and CRPA members' inability to obtain a carry license, CRPA members residing in Los Angeles County would immediately begin carrying a firearm in public for self-defense, but they refrain from doing so for fear of liabilities for violating one or more of California's laws that criminalize this conduct.	8. Hearsay. Fed. R. Evid. 801.	8. Sustained / Overruled
10 11 12 13 14 15 16	¶ 9. These CRPA members are thus prohibited from carrying a firearm for self-defense without risking criminal prosecution for exercising their constitutional right to bear arms.		

Dated: October 3, 2017

Respectfully submitted,

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