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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SOUTHERN DIVISION**

STEVEN RUPP; STEVEN DEMBER;  
CHERYL JOHNSON; MICHAEL  
JONES; CHRISTOPHER SEIFERT;  
ALFONSO VALENCIA; TROY  
WILLIS; DOUGLAS GRASSEY;  
DENNIS MARTIN; and CALIFORNIA  
RIFLE & PISTOL ASSOCIATION,  
INCORPORATED,

Plaintiffs,

vs.

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

Defendants.

Case No.: 8:17-cv-00746-JLS-JDE

**DECLARATION OF JAMES  
CURCURUTO IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Hearing Date: December 15, 2017

Hearing Time: 2:30 p.m.

Courtroom: 10A

Judge: Hon. Josephine L. Staton

**DECLARATION OF JAMES CURCURUTO**

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

5 2. I am currently working as Director of Research and Market Development  
6 for the National Shooting Sports Foundation, Inc. (NSSF). From November 2009  
7 through mid-October 2017, I was the Director, Industry Research & Analysis for  
8 NSSF. I received my associate's degree in business administration from the State  
9 University of New York at Cobleskill in 1991 and my bachelor's degree in business  
10 management from the University of North Carolina at Wilmington in 1993. My  
11 approximate 20 year business work history focuses mainly on sales, marketing,  
12 advertising, research and analysis.

13 3. NSSF, formed in 1961, is the trade association for the firearms,  
14 ammunition, hunting and recreational shooting sports industry. Its mission is to  
15 promote, protect and preserve hunting and the shooting sports. The NSSF has a  
16 membership of more than 10,000 manufacturers, distributors, firearm retailers,  
17 shooting ranges, sportsmen's organizations and publishers.

18 4. In my current position as Director of Research and Market Development,  
19 I have been tasked with additional responsibilities related to participant recruitment  
20 and retention. A majority of my previous job responsibilities remain unchanged.

21 5. As Director, Industry Research and Analysis, I was responsible for most  
22 of the research activities at NSSF, and I directed the activities of an internal research  
23 coordinator as well as several outside companies retained to conduct research and  
24 gather market and consumer information useful to NSSF members. Under my  
25 direction, dozens of informational reports and studies focusing on industry topics and  
26 trends such as: firearms, ammunition, target shooting and hunting have been released  
27 to the NSSF member base and many are shared outside the NSSF member base as  
28 well. Data from these releases has been referenced many times in endemic, non-

1 endemic, online and print newspaper and magazine articles, used in corporate 10K  
2 reports, and mentioned in other media.

3 6. I have authored and provided information for several articles published in  
4 trade magazines, including:

- |  |                     |                |
|--|---------------------|----------------|
| 5 a) Firearms Accidents Drop           | SHOT Business       | June/July 2011 |
| 6 b) New Study Can Aid Planning        | The Range Report    | Winter 2011    |
| 7 c) NSSF Releases Report on Diversity | SHOT Business       | April/May 2013 |
| 8 d) Participation Trends              | SHOT Business       | Aug/Sept 2013  |
| 9 e) Industry Research from NSSF       | SHOT Business       | December 2013  |
| 10 f) Many Uses, Many Sales            | AR Guns and Hunting | May 2014       |
| 11 g) The Big Bucks of Target Shooting | SHOT Business       | June/July 2014 |
| 12 h) Opening the Clubhouse            | SHOT Business       | December 2014  |
| 13 i) Improve Your Knowledge           | SHOT Business       | January 2015   |
| 14 j) Executive Privilege              | SHOT Business       | December 2016  |
| 15 k) Target Audience                  | SHOT Business       | Oct/Nov 2017   |

16  
17 7. I have been deposed as an expert witness on the topic of commonality of  
18 modern sporting rifles in the following cases:

- 19 a) *Wilson, et al. v. Cook County, Illinois*, No. 07 CH 4848, In the Circuit of  
20 Cook County Illinois County Department, Chancery Division. November  
21 7, 2013 Waterbury, CT 06702
- 22 b) *Kolbe v. O'Malley*, U.S. District Court for the District of Maryland,  
23 January 24, 2014
- 24 c) *Friedman v. City of Highland Park*, May 27, 2014 Windsor Locks, CT  
25 06096

26 8. Many NSSF members manufacture, distribute and/or sell firearms, and  
27 they look to NSSF to provide market data reflecting consumer preferences, market  
28 trends and other information for use in their business decisions. Among the firearm

products sold by NSSF members are modern sporting rifles, a category of firearms comprised primarily of semiautomatic rifles built on the AR- and AK-platforms.<sup>1</sup> A “semiautomatic,” or self-loading, rifle is a firearm which fires, extracts, ejects and reloads a cartridge once for each pull and release of the trigger.<sup>2</sup> These rifles have the capacity to accept a detachable magazine. Additionally, they come in a range of calibers, including 22 rimfire, 223 Remington, and larger calibers used for hunting big game (e.g., white-tailed deer). Research conducted by the NSSF and under my direction demonstrates that modern sporting rifles are popular and commonly owned and used by millions of persons in the United States for a variety of lawful purposes, including, but not limited to, recreational and competitive target shooting, home defense, collecting and hunting.

9. Figures from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Annual Firearms Manufacturers and Exports Reports (AFMER) show that between 1990 and 2015, United States manufacturers produced approximately 9,309,000 AR-platform rifles for sale in the United States commercial marketplace. More than fifty different manufacturers produced these rifles, including Smith & Wesson, Colt, Remington and Sig Sauer. During these same years, figures from the U.S. International Trade Commission (ITC) show approximately 4,430,000 AR- and AK-platform rifles were imported into the United States for sale in the commercial marketplace. In 2015 alone, more than 1.5 million of these rifles were either manufactured in the U.S. or imported to the U.S. for sale. By way of comparison, in 2015, the number of modern sporting rifles manufactured in or imported to the U.S.

<sup>1</sup> The AR in “AR-platform” rifle stands for Armalite, the company that in the 1950s developed this style of rifle, which eventually became both the military’s M16 rifle and the civilian semi-automatic sporting rifle known as the AR-15, or modern sporting rifle. “AR” does NOT stand for “assault rifle” or “automatic rifle.” <http://www.nssfblog.com/%E2%80%98ar%E2%80%99-stands-for-armalite/>.

<sup>2</sup> “Semiautomatic” rifles should not be confused with “automatic” rifles, which fire when the trigger is pulled and continue to fire until the trigger is released or ammunition is exhausted. Sporting Arms and Ammunition (“SAAMI”) Glossary of Industry Terms, <http://www.saami.org/Glossary/display.cfm?letter=S>

1 was nearly double the number of the most commonly sold vehicle in the U.S., the  
2 Ford F series pick-up trucks (including F-150, F-250, F-350, F-450 and F-550). See  
3 [http://fordauthority.com/fmc/ford-motor-company-sales-numbers/fordsales-](http://fordauthority.com/fmc/ford-motor-company-sales-numbers/fordsales-numbers/ford-f-series-sales-numbers/)  
4 [numbers/ford-f-series-sales-numbers/](http://fordauthority.com/fmc/ford-motor-company-sales-numbers/fordsales-numbers/ford-f-series-sales-numbers/) (780,354 sold). Modern sporting rifles have  
5 been available to civilians since at least the late 1950s.<sup>3</sup> Thus, many more AR- and  
6 AK-platform rifles were either manufactured in the U.S. or imported to the U.S. for  
7 sale in the commercial marketplace prior to 1990.

8 10. In 2013, NSSF published its Modern Sporting Rifle (MSR)  
9 Comprehensive Consumer Report 2013. The findings in the report were based on on-  
10 line responses from 21,942 owners of modern sporting rifles. Included among the  
11 findings were that the typical owner of a modern sporting rifle is male, over 35 years  
12 old, married with a household income above \$75,000 and has some college education.  
13 Approximately 35 percent of all owners of modern sporting rifles are current or  
14 former members of the military or law enforcement.<sup>4</sup> The survey found that three out  
15 of every four recently purchased modern sporting rifles are chambered for 223  
16 Remington ammunition. Owners of modern sporting rifles consider accuracy and  
17 reliability to be the most important attributes of a modern sporting rifle. Other reasons  
18 cited by survey respondents for their purchase of modern sporting rifles include  
19 ergonomics, low recoil, ease with which they can be shot and their light weight.  
20 Recreational target shooting was ranked as the number one reason why owners  
21 purchased a modern sporting rifle, followed closely by home defense. Other reasons  
22 for owning a modern sporting rifle include, but are not limited to, varmint hunting, big  
23

24 <sup>3</sup> <http://world.guns.ru/civil/usa/ar-15-e.html>. The original AR-15 Sporter rifles  
25 were manufactured for the civilian market by Colt's Firearms since 1963. See, attached  
advertisment.

26 <sup>4</sup> By contrast, the NSSF Modern Sporting Rifle (MSR) Comprehensive  
27 Consumer Report 2010 found that 44% of all owners of modern sporting rifles were  
28 current or former members of the military or law enforcement. Consistent with general  
sales trend data, it is reasonable to infer that this difference is attributable to an  
increase in the popularity and ownership of modern sporting rifles in the general  
civilian population.

1 game hunting, competitive target shooting and collecting. The average price paid for a  
2 modern sporting rifle by survey respondents was \$1,058.00. Combining data from this  
3 report with production and import data from ATF AFMER and ITC, we can apply a  
4 weighted average formula showing more than 4.8 million people currently own one or  
5 more modern sporting rifle.

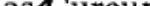
6 11. In 2017, the NSSF published its Firearms Retailer Survey Report 2017  
7 edition. The report set forth findings based on an on-line survey of 324 firearm  
8 retailers located across the United States. Among the findings were that 92.9 percent  
9 of those responding to the survey currently sell new modern sporting rifles. Of the  
10 modern sporting rifles sold, those chambered for 223 Remington ammunition were by  
11 far the most commonly purchased. Respondents reported that modern sporting rifles  
12 were the most popular long gun sold accounting for 17.9 percent of the firearms they  
13 sold in 2016. In contrast, 11.3 percent of the firearms sold were traditionally styled  
14 rifles while 11.5 percent of the firearms they sold were shotguns.

15 12. In 2017, NSSF published its Sports Shooting Participation in the United  
16 States in 2016 report. The report, based upon 3,050 telephone interviews, indicates  
17 that participation in any target shooting or sport shooting increased 44 percent from  
18 approximately 34.4 million participants in 2009 to 49.4 million participants in 2016,  
19 an increase of 15 million participants. The report also indicates that participation in  
20 target shooting with a modern sporting rifle increased 57 percent from approximately  
21 8.9 million participants in 2009 to 14.0 million participants in 2016.

22 13. The Federal Bureau of Investigation (FBI) releases National Instant  
23 Criminal Background Check System (NICS) figures on a monthly basis. NICS figures  
24 are commonly viewed as a proxy for firearm sales. NSSF adjusts down the monthly  
25 FBI NICS by subtracting background checks that do not correspond with a firearm  
26 transfer ("NSSF-Adjusted NICS"). NSSF releases NSSF-Adjusted NICS data to the  
27 industry in an attempt to provide a more accurate picture of market conditions. In  
28 2015, total NSSF-Adjusted NICS were approximately 14,244,000 nationwide.

14. Based on the findings listed above, it is my opinion that modern sporting rifles are commonly used by millions of law abiding Americans for a variety of lawful purposes. Additionally, it is my opinion that both lawful ownership and usage of modern sporting rifles are becoming even more common in recent years.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed within the United States on November 10, 2017.

  
James Curcuruto



**CERTIFICATE OF SERVICE**

IN THE UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

Case Name: *Rupp, et al. v. Becerra*  
Case No.: 8:17-cv-00746-JLS-JDE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**DECLARATION OF JAMES CURCURUTO IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Xavier Becerra  
Attorney General of California  
Peter H. Chang  
Deputy Attorney General  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102  
E-mail: peter.chang@doj.ca.gov

I declare under penalty of perjury that the foregoing is true and correct.  
Executed November 14, 2017.

/s/Laura Palmerin  
Laura Palmerin