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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 STEVEN RUPP; STEVEN
17 DEMBER; CHERYL JOHNSON;
18 MICHAEL JONES; CHRISTOPHER
19 SEIFERT; ALFONSO VALENCIA;
20 TROY WILLIS; DOUGLAS
21 GRASSEY; DENNIS MARTIN; and
22 CALIFORNIA RIFLE & PISTOL
23 ASSOCIATION, INCORPORATED,

24 Plaintiffs,

25 vs.

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

Defendants.

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

**DECLARATION OF STEPHEN
HELSLEY 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 STEPHEN HELSLEY

1
2 1. I am a retired peace officer from the California Department of Justice
3 (DOJ). The bulk of that career was in drug enforcement. The last three positions I
4 held were Chief of the Bureau of Narcotic Enforcement, Chief of the Bureau of
5 Forensic Services and finally Assistant Director of the Division of Law
6 Enforcement. As Assistant Director, I was responsible for the department's criminal,
7 civil and controlled substance investigations as well as law enforcement training,
8 intelligence gathering and our forensic laboratory system. In my executive level
9 positions, I had occasion to review special agent-involved shootings and a wide
10 range of homicides involving firearms. I have qualified as an expert in both criminal
11 and civil matters. I was the department's principal firearms instructor for many years
12 and am an FBI certified range master. I also participated in the firearm training that
13 was part of the FBI National Academy Program in Quantico, Virginia. Additionally,
14 I am a member of the American Society of Arms Collectors and a technical advisor
15 to the Association of Firearm and Tool Mark Examiners. I have co-authored five
16 books on firearms and have authored or co-authored more than fifty firearm-related
17 articles for US and Russian journals. For the past twenty-four years, I was first a
18 state liaison and, then later, a consultant to the National Rifle Association.
19 Throughout my adult life I have been an active participant in handgun, rifle and
20 shotgun competitions. I have also been a firearm collector and ammunition reloader
21 since the early 1960s. Finally, I am a collector of firearm related books – of which I
22 have approximately three thousand. Included in my book collection are
23 approximately 50 different issues of *Gun Digest*. It is a standard resource that is
24 widely used by gun dealers and buyers alike. *Gun Digest* has traditionally provided a
25 comprehensive overview of the firearms and related items available to retail buyers.

“ASSAULT WEAPON” FEATURES

26
27 2. The hallmark of state and federal assault weapon regulation has been a
28 focus, not on the firearm's operating system, or it's chambering, but rather on the

1 accessories attached to it. If the operating system is the engine/ transmission/
2 driveshaft/ differential of a car – the pistol grip is nothing more than an adjustable
3 steering wheel, the adjustable stock is a rudimentary adjustable seat, and the flash
4 suppressor is a modern exhaust system or a windshield wiper. All improve the
5 shooting/driving experience while having nothing to do with the basic, mechanical
6 function of the firearm or vehicle.

7 **The Pistol Grip**

8 3. The pistol grip of a rifle or shotgun is the area immediately behind the
9 trigger. It is designed for grasping by the shooter's 'strong hand' and protrudes
10 below the receiver and trigger mechanism of the firearm at various lengths and
11 angles depending on the intended use of the firearm. A 'full pistol grip' helps absorb
12 recoil and positions the hand (trigger finger) for optimum trigger control. Many
13 shotguns, especially those with two barrels and two triggers, have a 'straight hand'
14 grip. This configuration allows the shooting hand (trigger finger) to slide slightly
15 rearward in recoil to be better positioned for use of the second trigger. Virtually all
16 modern bolt-action, pump-action and semi-automatic rifles and shotguns have stocks
17 with pistol grips.

18 4. When a pistol grip was first fashioned as part of a gunstock has been
19 lost to history. Over the past two centuries the grip, in its various configurations
20 (metal, wood, plastic, etc.), has been described as Prince of Wales, half, semi, full,
21 scroll guard, scant and conspicuously protruding. Likely the first with a
22 'conspicuously protruding' pistol grip was on a flintlock c.1813 Baker Cavalry Rifle
23 used by the British military. With the confluence of understanding regarding conical
24 bullet design and the rifling twist rate needed to achieve the proper rotational rate,
25 accurate long-range (1000 yard) shooting became practical. As a result, rifles
26 intended for sporting use quickly incorporated a full pistol grip. This allowed,
27 particularly when firing from the prone position, for a steadier grip and the better
28 trigger control necessary for precision accuracy. Long-range competition began in

1 England c.1860 with the first international match being held at the Creedmoor range
2 in New York in 1874 between teams from the United States and Ireland. The rifles
3 (Rigby, Remington and Sharps) were all fitted with full pistol grip stocks. The first
4 patent for a 'pistol-grip' stock was likely No.1559 of 1877 (England) awarded to
5 Alexander Henry and Daniel Fraser.

6 5. Since the first government-made military muskets/rifles were produced
7 at a US armory in 1795, until WWI, virtually all had 'straight hand' (no pistol grip)
8 stocks. Exceptions were the M1819 Hall that had a version of a scroll guard grip and
9 specialized rifles with 'screw-on' grips designed primarily for target competition in
10 the 1870s and 1880s. The Civil War demonstrated the efficacy of magazine fed rifles
11 (Henry) and precision long range shooting (Berdan Sharpshooters) but those lessons
12 were quickly discounted. The battle at the Little Big Horn was another reminder but,
13 as the military was poorly funded, marksmanship training and improved rifles were
14 a low priority. It's worth noting that the stock blanks necessary for a full pistol grip
15 stock are larger and slightly more expensive, which may have worked against their
16 adoption.

17 6. The US was not alone in its commitment to the past. By the last decade
18 of 19th Century, most military rifle stocks were 'straight hand.' Then, c.1890, what
19 could be described as a 'scant' pistol grip, appeared on the Mannlicher, Enfield and
20 Mauser rifles from England and Europe. When the US entered WWI, its M1903
21 Springfield rifle had a straight hand stock. However, the primary US battle rifle of
22 that war was the M1917 Enfield - a design 'borrowed' from the 'Brits' with its scant
23 pistol grip. Springfield introduced a full pistol grip c.1921 for national and
24 international match rifles. With our entry into WWII, Springfield M1903 rifle
25 production was resumed. The importance of marksmanship had been accepted but
26 initially, the stock blanks available would only allow for scant pistol grips. Newly
27 adopted rifles - M1 Garand, M1 Carbine and the M1941 Johnson - all had full pistol
28 grip stocks. When the M1 Garand was replaced in the late 1950s by the M14, those

1 too had full pistol grips.

2 7. In the late 1950s, with the development of the AR-15, the traditional
3 wood stock was replaced by a multi piece ‘plastic’ stock. Instead of being carved
4 from a wood blank, the plastic AR pistol grip was attached with a screw. As with
5 pistol grips before it, the AR grip has no role in the mechanical functioning of the
6 firearm. As with older rifle designs, the AR grip simply places the shooting hand in
7 the proper position to operate the firearm’s trigger, magazine release, and safety-
8 mechanism. An AR type rifle can still be fired without a pistol grip installed, but
9 would leave the user’s hand in a non-optimal and less safe position to operate the
10 rifle. For example, the “MonsterMan” style grip (roughly comparable to a Prince of
11 Wales or semi-pistol grip)—that does not allow the user’s strong-hand to wrap
12 around it beneath the firearm’s action—is not prohibited by California law.

13 8. At one point in the pistol grip’s regulatory machinations – conspicuous
14 protrusion was a critical factor. It is an ‘inconvenient truth’ that all full pistol grips,
15 including that on the 1813 Baker flintlock ‘protrude’ below the trigger guard of a
16 rifle or shotgun. Like the AR grip, if a grip is of proper design and fit, it facilitates
17 the safe operation of the firearm. Proper use of a rifle or shotgun requires the use of
18 both hands. The ‘strong hand’ grasps the pistol grip and actuates the trigger. The
19 strong hand and shoulder absorb much of the recoil impulse, and generally the more
20 vertical the pistol grip, the more effective the strong-hand can manage recoil. The
21 ‘weak hand’ is critical for muzzle control and accurate aimed fire (for which
22 purposes some users find helpful a “forward pistol grip”).

23 9. Pistol grips (which includes “thumbhole stocks,” as they are
24 functionally equivalent) are, and always have been, nothing more than a part that, if
25 well designed, allows for safe and comfortable operation of a firearm - while serving
26 no role in its mechanical function. A detachable pistol grip can be installed (with
27 some gunsmithing) on rifles for which it wasn’t designed (including non-semi-
28 automatics). Doing so may affect the user’s experience with the rifle—either

1 negatively or positively—but does nothing to change the firearm’s rate of fire,
2 ammunition capacity, or power. In some cases, a “protruding pistol grip” is an
3 accommodation for a shooter with a disability. Perhaps the most famous example is
4 Germany’s Kaiser Wilhelm whose deformed left arm required him to use a specially
5 configured firearm. The Luger Pistol Fred A. Datig, Borden Publishing Co. LA 1962
6 pg.81.

7 **Adjustable Stocks**

8 10. Proper stock length is based on arm and neck length, chest muscle
9 development, fullness of face, hand size and finger length. Clothing and the type of
10 sights used must also be considered. What is referred to as ‘length of pull’ (LOP) is
11 the distance between the center of the trigger and the center of the back surface (butt
12 plate) of the stock. It’s not hard to imagine that Shaquille O’Neil and Danny DeVito
13 have different LOPs, and require different stock lengths.

14 11. Most mass-produced rifles and shotguns are equipped with a stock that
15 will fit the ‘average’ user – whoever that is. Some firearms come with factory stocks
16 that are designed to allow the user to adjust the LOP. Those not so-designed can be
17 adjusted by cutting of the end of the butt stock or adding extensions to it, Custom
18 gunmakers can fashion a stock to exactly meet a user’s wishes - but that can be very
19 costly. Further complicating stock fit is that the proper LOP for a person wearing a t-
20 shirt might be unusable if that same person was cold weather hunting while wearing
21 a bulky coat. A user-adjustable telescoping stock is simply an acknowledgement that
22 people come in different sizes. The issue of proper LOP is as old as firearms
23 themselves. The British military bolt-action of the early 20th Century - the Short
24 Magazine Lee Enfield - had a four part wood stock with a butt stock secured by a
25 massive through bolt. To address the need for various LOPs, - three different (and
26 easily replaceable) lengths of butt stocks were available The Lee-Enfield Rifle,
27 Major E.G.B Reynolds, ARCO Publishing, NY 1962 pg.88. If a rifle’s stock is too
28 long, the rifle cannot be shouldered and is thus virtually unusable.

12. Many AR type rifles are equipped with telescopic sights. Such sights generally have an eye relief requirement of 3 to 4 inches. “Eye relief” is the distance the eye must be from the rear glass element of the sight. Shooting position can impact achieving the proper ‘eye relief’. For instance, it is easier to place your face in a more forward position on the stock when firing from the prone position than if in the standing position. The design of the AR rifle platform is ideally suited for a user-adjusted (telescoping) stock that allows the user to adjust the LOP whenever conditions dictate.

13. Such stocks have a relatively short adjustment range so there is little, if any, change in the user’s ability to conceal an AR with a telescoping stock. Such stocks can be compared to adjustable car seats. Adjustment allows the user to have a comfortable and safe driving position but has nothing to do with the power, speed or basic functioning of the vehicle.

14. To some, adjustable stocks have erroneously become associated with “lethality.” In fact, some of the most adjustable stocks will be found on rifles and shotguns used at the highest level of competition, e.g., the Olympic games. *See* Exhibit “A” attached hereto. Such competition stocks will also be found with “conspicuously protruding pistol grips” and “thumbholes.”

Flash Suppressors

15. In the cosmos of those regulated accessories, only the bayonet lug is more irrelevant than the flash suppressor, as far as addressing the alleged threats from firearms with “assault weapon” features. The science of why a muzzle flash is generated when a rifle is fired is very complex. Simply put, it results from the heated gas expelled from the muzzle and the combination of barrel length/ bullet weight and type/amount of powder. Generally speaking, with the same ammunition, longer barrels will produce less ‘flash’ than shorter ones – with or without a flash suppressor. Muzzle flash, with or without a flash suppressor, can be difficult to see in daylight conditions. Flash suppressors are intended to reduce the visible signature

1 in low-light conditions – thus protecting, to some degree, the shooters night vision.
2 Flash suppressors do not hide the flash from those in the direct line of fire. I am
3 unaware of any studies identifying flash suppressors as a relevant element in any
4 firearm-related crime, or a single anecdote in which they played a role in making a
5 crime worse than it otherwise would have been. As with other accessories or ‘do-
6 dads’, the presence of a muzzle break, flash suppressor or compensator has no
7 relevance to a firearm’s “rate of fire and capacity for firepower” or chambering.

8 16. The flash suppressor is similar in appearance to its ‘cousin’ – the
9 muzzle break. Both are attached to the muzzle end of the barrel, are generally two to
10 three inches in length, are roughly double the diameter of the barrel and have slots
11 and/or holes to release the gas created by firing a cartridge. The muzzle break is
12 primarily designed to reduce the recoil impulse. Distinguishing between a flash
13 suppressor and a muzzle break can be difficult. This has been made even more
14 difficult by the commercial availability of combination devices that serve to both
15 reduce recoil and flash.

16 17. Finally, there are “compensators,” devices that are similar in
17 appearance to flash suppressors and muzzle brakes but that serve to redirect noise
18 and concussion away from the shooter. While there may be some minimal reduction
19 in flash, their ‘raison d’etre is to increase shooter comfort.

20 18. Just when a muzzle brake or compensator morphs into a flash
21 suppressor requires the ‘wisdom of Solomon’, more precise legal definitions and
22 sophisticated testing equipment, as each may perform some of the function of the
23 other

24 **Utility for Self-Defense and other Lawful Uses**

25 19. Semiautomatic, centerfire rifles with detachable magazines—i.e.,
26 magazines that can be readily removed from their insertion point on a firearm,
27 usually by the user’s depressing a button or lever with a finger—have been in safe
28 and effective use by civilians in this country for over a century. Over the past six

1 decades, semiautomatic, centerfire rifles with the above described “features” have
2 enjoyed significant evolution and a tremendous growth in popularity. Perhaps the
3 best examples are rifles built on the AR-15/AR-10 platforms (the “platform” is the
4 lower receiver group). An owner can configure his AR to use .22 rimfire
5 ammunition for training a new shooter, as a 7lb rifle for hunting in steep difficult
6 terrain and easier handling in self-defense, or as a 12lb single-shot rifle for 1000-
7 yard target competition. Multiple configurations are possible because the AR is
8 comprised of three readily detachable groups of parts – the stock, lower receiver, and
9 upper receiver. It’s a functionality that is similar to Nikon or Hasselblad film camera
10 systems where film backs, motor drives and lenses could be quickly substituted as
11 the photographer’s needs changed. As the result of important design changes, better
12 ammunition, and the flexibility given by the proliferation of ‘after market’ parts’
13 (the 2015-2016 Brownells catalog devotes 99 pages to AR parts), ARs have become
14 the Modern Sporting Rifle of the United States.

15 20. Two other factors have resulted in the extraordinary popularity of the
16 AR – the rust resistant materials used in its construction and the .223 Remington
17 (5.56x45mm) cartridge for which most are chambered. The AR is ideally suited to
18 the harshest conditions and is extremely reliable. It is the cartridge for which most
19 are chambered that is most likely the key to its appeal. The .223 Remington cartridge
20 is available in a number of load configurations but one of the most common is a 55
21 grain bullet at 3200 feet per second from a 20” barrel. It is more powerful than the
22 vast majority of handgun cartridges but is on the low end for rifle cartridges.
23 According to TWOAMENDMENTS.com (rifle recoil table) the recoil of a .223
24 Remington using a 55-grain bullet is 3.2 foot-pounds in an 8lb rifle. In comparison,
25 a .30-06 (180 grain at 2700fps)—which is a standard deer hunting cartridge—
26 generates 20.3 foot pounds of recoil in a similar weight rifle. Adding weight to the
27 stock or a muzzle brake will further reduce felt recoil. This is very important when
28 training new shooters as the combination of recoil and the noise of the muzzle blast

1 can cause accuracy destroying “flinching.”

2 21. AR-platform rifles serve a variety of functions, including target
3 shooting, hunting, collecting, and self-defense. The AR is a particularly excellent
4 choice for self-defense when coupled with the appropriate ammunition because of its
5 accuracy, light recoil, ergonomic-design, and, most importantly, that it can be
6 configured to the user’s needs. Each of the features described above is common, if
7 not standard, on AR-platform rifles because they are intended to provide at least one
8 of those benefits. One would be hard-pressed to find an AR-platform rifle without a
9 “conspicuously protruding” pistol grip affixed.

10 CONCLUSION

11 22. None of the features that California prohibits on semi-automatic,
12 centerfire rifles with non-fixed magazines—a “pistol grip” (or “forward pistol grip”),
13 a “thumbhole stock,” a “flash suppressor,” and an adjustable (“telescoping”) stock—
14 has anything to do with the rifle’s rate of fire, power, or capacity to accept
15 ammunition. Nor are any of them dangerous per se or when used in conjunction with
16 any of the other features. Each of these features is designed to both independently,
17 and in conjunction with other features, make a rifle more user friendly and thus safer
18 to operate—whether for target practice or in the critically important moments where
19 self-defense is necessary. The effect of restricting them is to effectively ban the most
20 popular rifle models in the country today.

21
22 I declare under penalty of perjury that the foregoing is true and correct.
23 Executed within the United States on November 10, 2017.

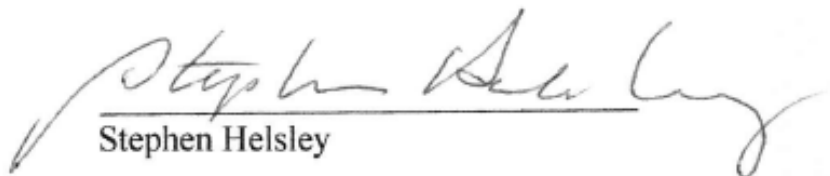
24
25
26 
27 Stephen Helsley
28

EXHIBIT A



90TSS TRAP | SKB Shotguns

SKB Shotguns - 1064 x 650 - Search by image

The fit and feel of a tournament stock is a key element in competition shotguns. The personalized fit of an adjustable

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Part # 010860



Retail Price: \$3,490.00

In Stock: 4

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Small bore model 1907 with aluminum stock Precise 1918. SIGHTS NOT INCLUDED

Many target shooters prefer this rifle. Many top national and international results were achieved with it. Like all ANSCHÜTZ models the 1907 has been permanently improved. The precise and individually adjustable match trigger and the extremely short locktime allow a precise shot release.

Aluminum stock Precise 1918

· Milled out of high quality strength aluminum, this stock has a very slim fore-end with large radius and is suitable for all hand sizes.

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 STEPHEN HELSLEY 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