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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
WADDELL, CALIFORNIA RIFLE &
PISTOL ASSOCIATION,
INCORPORATED, a California
corporation,

Plaintiffs,

v.

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

Defendants.

Case No: 17-cv-1017-BEN-JLB

**DECLARATION OF RICHARD
LEWIS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: June 13, 2017

Time: 10:00 a.m.

Dept: 5A

Judge: Hon. Roger T. Benitez

DECLARATION OF RICHARD LEWIS

1
2 1. I, Richard Lewis, am a plaintiff in the above-entitled action. I make this
3 declaration of my own personal knowledge and, if called as a witness, I could and would
4 testify competently to the truth of the matters set forth herein.

5 2. I am a current resident of San Diego County, California.

6 3. I am a law-abiding adult who is not prohibited from owning firearms under the
7 laws of the United States or the state of California. I have never been found by any law
8 enforcement agency, any court, or any other government agency to be irresponsible,
9 unsafe, or negligent with firearms in any manner.

10 4. Prior to January 1, 2000, I lawfully acquired a magazine capable of holding
11 more than 10 rounds in accordance with state and federal law for target practice and for
12 in-home self-defense. This magazine has not been permanently altered to be incapable of
13 accepting more than 10 rounds, it is not a .22 caliber tube ammunition feeding device,
14 and it is not a tubular magazine contained in a lever-action firearm. I currently own and
15 possess this magazine for only lawful purposes, especially for in-home self-defense.

16 5. I have never been arrested for, charged with, or found guilty of using my
17 magazine over ten rounds in an unlawful, unsafe, or negligent manner.

18 6. I selected this particular magazine in part because I believe that a firearm with a
19 magazine capable of holding more than 10 rounds is useful for in-home self-defense.

20 7. I am concerned that if multiple intruders attack me while at home, I will require
21 the use of more than 10 rounds to effectively protect myself and others in my home.

22 8. I fear that a home intruder will be carrying a firearm with a magazine capable of
23 holding more than 10 rounds or will be carrying multiple firearms, and I will require a
24 firearm with a magazine capable of holding more than 10 rounds to effectively protect
25 myself and others from such a threat in my home.

26 9. I believe that being forced to change my magazine after expending 10 rounds
27 during any critical time that requires me to act in self-defense will impact my ability to
28 effectively defend myself and others in my home. Should I require more than 10 rounds

1 to neutralize the threat of a home intruder or group of intruders, I fear that I will be
2 unable to re-load my firearm in time to effectively defend myself and others in my home.

3 10. Due to the Defendants' enforcement of California Penal Code section 32310, I
4 am prohibited from acquiring or transferring within the state of California, any magazine
5 capable of holding more than 10 rounds that has not been permanently altered so that it
6 cannot accommodate more than 10 rounds, is not a .22 caliber tube ammunition feeding
7 device, and is not a tubular magazine that is contained in a lever-action firearm. And
8 beginning July 1, 2017, I will be prohibited from possessing any such magazine that I
9 currently own within the state of California

10 11. In accordance with California Penal Code sections 32310, I intend to cease
11 possessing any magazine capable of holding more than 10 rounds within the state of
12 California on or before July 1, 2017.

13 12. But for California Penal Code section 32310, I would continuously possess a
14 magazine capable of holding more than 10 rounds within the state of California for lawful
15 purposes, including in-home self-defense, after July 1, 2017. If this court declares
16 California Penal Code section 32310 invalid or otherwise enjoins its enforcement, I will
17 continue to possess any magazine prohibited by California Penal Code section 32310
18 within the state of California.


19 13. Because California Penal Code section 32310 requires that I cease possessing
20 within the state of California any magazine capable of holding more than 10 rounds, I
21 will be irreparably harmed by the ongoing deprivation of my right to possess and use
22 commonly possessed firearm magazines for in-home self-defense, without risking
23 criminal prosecution.

24 14. Because California Penal Code section 32310 requires that I physically
25 dispossess myself of any magazine over 10 rounds by July 1, 2017, I will be irreparably
26 harmed by the unconstitutional physical taking of my lawfully acquired and possessed
27 property without government compensation.

28 15. Because California Penal Code section 32310 bans the possession of any

1 magazine over 10 rounds within the state, I believe the law strips my magazine of its use
2 and I will be irreparably harmed by the unconstitutional regulatory taking of my lawfully
3 acquired and possessed property without government compensation.

4 I declare under penalty of perjury that the foregoing is true and correct. Executed
5 within the United States on May 20, 2017.

6
7 
8 Richard Lewis
Declarant

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

VIRGINIA DUNCAN, RICHARD
LEWIS, PATRICK LOVETTE, DAVID
MARGUGLIO, CHRISTOPHER
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XAVIER BECERRA, in his official
capacity as Attorney General of the State
of California; and DOES 1-10,

Defendant.

Case No: 17-cv-1017-BEN-JLB

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, declare under penalty of perjury that I am a citizen of the United States over 18 years of age. My business address is 180 E. Ocean Boulevard, Suite 200 Long Beach, CA 90802. I am not a party to the above-entitled action.

I have cause service of the following documents, described as:

**DECLARATION OF RICHARD LEWIS IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

on all parties by placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at Long Beach, CA, on May 26, 2017.

Ms. Alexandra Robert Gordon
Mr. Anthony P. O'Brien
California Department of Justice
1300 I Street, Suite 125
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 26, 2017, at Long Beach, CA.


Laura Palmerin