

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
Phone (415) 355-7900 Fax (415) 355-8566
<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

This form is available in a fillable version at http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Mediation_Questionnaire.pdf.

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	17-56081		
District Court/Agency Case Number(s):	3:17-cv-01017-BEN-JLB		
District Court/Agency Location:	Southern District of California		
Case Name:	Duncan, et al.	v.	Becerra, et al.
If District Court, docket entry number(s) of order(s) appealed from:	28		
Name of party/parties submitting this form:	Plaintiffs-Respondents Duncan, et al.		

Briefly describe the dispute that gave rise to this lawsuit.

Plaintiffs challenged California Penal Code Section 32310, the State's ban on the manufacture, sale, import, transfer, and possession of firearm magazines capable of holding over 10 rounds of ammunition on the grounds that it violates several provisions of the U.S. Constitution.

Plaintiffs are individuals who lawfully own and possess magazines over 10 rounds or would immediately acquire such magazines, but for the enforcement of section 32310, and a self-defense civil rights organization. Plaintiffs contend the law violates their rights under the Second Amendment, the Takings Clause, and the Due Process Clause.

Briefly describe the result below and the main issues on appeal.

The district court granted Plaintiffs' Motion for Preliminary Injunction, finding they were likely to succeed on the merits of their claims that section 32310 violates the Second Amendment, the Takings Clause, and the Due Process Clause of the U.S. Constitution. This Court is asked to determine whether the district court abused its discretion in finding that, on the current record, Plaintiffs were likely to succeed on the merits of their claims and had met the remaining preliminary injunction factors.

(Continue to next page)

Describe any proceedings remaining below or any related proceedings in other tribunals.

This interlocutory appeal deals only with the district court's order granting Plaintiffs' Motion for Preliminary Injunction. The case is currently proceeding on the merits in the court below.

Different plaintiffs filed a separate challenge to section 32310 in the Eastern District of California. That case, Wiese v. Becerra, 2:17-cv-00903-WBS-KJN, is also ongoing.

Provide any other thoughts you would like to bring to the attention of the mediator.

Because this appeal involves questions regarding the constitutionality of a state law, Plaintiffs believe it is not suitable for mediation.

*Any party may provide additional information **in confidence** directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Provide the case name and Ninth Circuit case number in your message. Additional information might include level of interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.*

CERTIFICATION OF COUNSEL

I certify that:

☒ a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).

☒ I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

How to File: Complete the form and then convert the filled-in form to a static PDF (File > Print > PDF Printer or any PDF Creator). To file, log into Appellate ECF and select File Mediation Questionnaire. (*Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system.*)

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9th Circuit Case Number(s)

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CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

CERTIFICATE OF SERVICE

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I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

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