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8 **IN THE UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**

11 MICHELLE FLANAGAN, et al.,

12 Plaintiffs,

13 v.

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

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

**PLAINTIFFS' OBJECTION TO
DEFENDANT'S PROPOSED
JUDGMENT**

Action Filed: August 17, 2016

1 Plaintiffs, Michelle Flanagan, Samuel Golden, Dominic Nardone, Jacob
2 Perkio, And The California Rifle & Pistol Association, Incorporated (“CRPA”)
3 (collectively, the “Plaintiffs”) make the following objections to the Defendant’s
4 Proposed Judgment filed on September 11, 2017, docket number 47-1.

5 Objection 1:

6 Defendant’s Proposed Judgment misstates the proper name of one of the
7 Plaintiffs. The proper name is California Rifle & Pistol Association, Incorporated,
8 Defendants omit “Incorporated” in describing said Plaintiff.

9 Objection 2:

10 The Court should not award Defendant any costs as requested in his
11 Proposed Judgment. Federal Rule of Civil Procedure 54(d)(1) provides in part that
12 costs other than attorneys’ fees should be allowed to prevailing parties. However,
13 the Court has discretion to deny the award of costs if the losing party can show an
14 appropriate reason for doing so. “Appropriate reasons for denying costs include: (1)
15 the substantial public importance of the case, (2) the closeness and difficulty of the
16 issues in the case, (3) the chilling effect on future similar actions, (4) the plaintiff’s
17 limited financial resources, and (5) the economic disparity between the parties.
18 [Furthermore] this is not ‘an exhaustive list of ‘good reasons’ for declining to
19 award costs,’ but rather a starting point for analysis.” *Knox v. City of Fresno*, 208 F.
20 Supp. 3d 1114 (E.D. Cal. 2016), quoting *Draper v. Rosario*, 836 F.3d 1072, 1087
21 (9th Cir. 2016), quoting *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236,
22 1247-48 (9th Cir. 2014). Significantly, “a losing party need not demonstrate that all
23 five factors weigh against imposing costs.” *Draper*, 836 F.3d at 1087. Here, the
24 Court should find factors one, two, four, and five plainly weigh in favor of not
25 awarding costs to Defendants.

26 The first factor – the substantial public importance of the case – clearly
27 weighs in favor of Plaintiffs. This case involves a key question about the scope of a
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1 significant constitutional right that goes well beyond the individually named
 2 Plaintiffs' interests. Questions about the scope of core constitutional rights are
 3 clearly of great public importance. This case thus deals with a true question of
 4 widespread public importance and significance.

5 The second factor – the closeness and difficulty of the issues in the case –
 6 also weighs in favor of Plaintiffs. As evidence of the issue's closeness and
 7 difficulty, the Ninth Circuit Court of Appeals has expressly reserved the question of
 8 "whether the Second Amendment protects some ability to carry firearms in public."
 9 *Peruta v. County of San Diego*, 824 F.3d 919, 927 (9th Cir. 2016) (en banc). That
 10 is an unmistakable affirmation of the significance of the issues in this litigation.
 11 Additionally, there is no question that the issues required extensive analysis and a
 12 marshalling of evidence from both sides on difficult and highly nuanced questions
 13 of constitutional interpretation and public policy considerations in this evolving
 14 area of constitutional law.

15 Related factors four and five – the Plaintiffs' limited financial resources and
 16 the economic disparity between the parties – also both weigh in favor of Plaintiffs.
 17 The individual Plaintiffs in this action are regular individuals for whom paying
 18 Defendants' costs would be a great burden. And the CRPA is a nonprofit
 19 organization. Moreover, the economic disparity between the Plaintiffs and
 20 Defendants truly speaks for itself. Plaintiffs are mere individuals and a relatively
 21 small organization dependent on the charity of its dues paying membership;
 22 Defendant is essentially the executive branch of the government of the State of
 23 California – the fifth largest economy in the world. The amount in controversy here,
 24 while significant to Plaintiffs, is truly trivial to Defendants.

25 Dated: May 14, 2018

MICHEL & ASSOCIATES, P.C.

26 /s/Sean A. Brady
 27 Sean A. Brady
 28 Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

Case Name: *Flanagan, et al. v. California Attorney General Xavier Becerra, et al.*
Case No.: 2:16-cv-06164-JAK-AS

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:

PLAINTIFFS' OBJECTION TO DEFENDANT'S PROPOSED JUDGMENT

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	<i>Attorneys for Attorney</i>
P. Patty Li, Deputy Attorney General	<i>General of the State of</i>
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I declare under penalty of perjury that the foregoing is true and correct.

Executed May 14, 2018

/s/Laura Palmerin
Laura Palmerin