

1 XAVIER BECERRA  
Attorney General of California  
2 State Bar No. 118517  
MARK R. BECKINGTON  
3 Supervising Deputy Attorney General  
State Bar No. 126009  
4 ANTHONY P. O'BRIEN  
Deputy Attorney General  
5 State Bar No. 232650  
JOHN D. ECHEVERRIA  
6 Deputy Attorney General  
State Bar No. 268843  
7 300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
8 Telephone: (213) 269-6249  
Fax: (213) 897-5775  
9 E-mail: John.Echeverria@doj.ca.gov  
Attorneys for Defendant Attorney General  
10 Xavier Becerra

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
13  
14

15 **VIRGINIA DUNCAN, RICHARD**  
16 **LEWIS, PATRICK LOVETTE,**  
17 **DAVID MARGUGLIO,**  
18 **CHRISTOPHER WADDELL, and**  
19 **CALIFORNIA RIFLE & PISTOL**  
20 **ASSOCIATION, INC., a California**  
21 **corporation,**

Plaintiffs,

v.

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

Defendants.

17-cv-1017-BEN-JLB

**DECLARATION OF JOHN D.**  
**ECHEVERRIA IN SUPPORT OF**  
**DEFENDANT'S EX PARTE**  
**APPLICATION TO STAY**  
**JUDGMENT PENDING APPEAL**

Date:

Time:

Judge: Hon. Roger T. Benitez

Courtroom: 5A

Action Filed: May 17, 2017

**DECLARATION OF JOHN D. ECHEVERRIA**

I, John D. Echeverria, declare:

1. I am a Deputy Attorney General with the California Department of Justice and serve as counsel to Defendant Xavier Becerra, Attorney General of the State of California (“Defendant”), in the above-captioned matter.

2. Except as otherwise stated, I have personal knowledge of the facts set forth in this declaration, and if called upon as a witness I could testify competently as to those facts. I make this declaration in support of Defendant’s Ex Parte Application to Stay Judgment Pending Appeal.

3. On April 1, 2019, at approximately 12:30 p.m., I contacted Anna Barvir, counsel for Plaintiffs, by telephone and left a voicemail, informing her that Defendant would be applying ex parte, as early as today, for an order staying the Judgment entered in this action on March 29, 2019 (Dkt. No. 88) pending Defendant’s appeal to the United States Court of Appeals for the Ninth Circuit. I also informed Ms. Barvir that Defendant would be requesting in the application an immediate, temporary stay pending the Court’s consideration of the ex parte application, in an effort to preserve the status quo.

4. On April 1, 2019, at approximately 12:50 p.m., I contacted Sean Brady, counsel for Plaintiffs, by telephone, and we discussed Defendant’s intention to apply ex parte for a stay pending appeal. I also informed Mr. Brady of Defendant’s request for an immediate, temporary stay pending the Court’s ruling on the application. Mr. Brady informed me that he would consult with his clients as to whether they are opposed to either or both requests.

5. On April 1, 2019, at approximately 2:12 p.m., I spoke on the telephone with Ms. Barvir and Mr. Brady. Mr. Brady informed me that Plaintiffs will be opposing the ex parte application for a stay pending appeal. Mr. Brady stated that he plans to file Plaintiffs’ opposition to the application to stay pending appeal by this Wednesday, April 3, 2019.

1           6. Mr. Brady also indicated that Plaintiffs will be opposing Defendant's  
2 request for an immediate, temporary stay pending the Court's consideration of the  
3 application to stay pending appeal. We discussed Mr. Brady's concern that, if the  
4 immediate stay is issued, individuals who may have ordered LCMs over the  
5 weekend following entry of the Judgment may be in violation of the law if they  
6 receive the LCMs during the stay. Given that Defendant is requesting that the  
7 Court issue the temporary stay by April 2, 2019, Mr. Brady stated that Plaintiffs  
8 anticipate filing their opposition to the request for a temporary stay as early as this  
9 evening.

10           7. Good cause exists for granting the ex parte application. The Court  
11 issued its ruling on Plaintiffs' motion for summary judgment and entered the  
12 Judgment in the afternoon of March 29, 2019. After reviewing the ruling, I  
13 contacted Plaintiffs' counsel as soon as practicable on April 1, 2019.

14           8. Good cause exists for the ex parte relief requested. If the Court's  
15 Judgment is reversed on appeal, absent a stay of the Judgment pending appeal, the  
16 State of California will be irreparably harmed by the influx of large-capacity  
17 magazines during the appeal. Attached hereto as **Exhibit 1** is a true and correct  
18 copy of a social media post on Facebook.com by an out-of-state firearms retailer,  
19 indicating that it will accept orders for LCMs by California residents and expects an  
20 increase in order volume as a result. If Section 32310 is ultimately reinstated by the  
21 Ninth Circuit, those new LCMs will be rendered illegal under state law, and it will  
22 be difficult for the State to remove these new LCMs. A stay pending appeal will  
23 preserve the status quo as it existed prior to the entry of the Judgment.

24           9. Good cause also exists for the issuance of an immediate and temporary  
25 stay of the Judgment pending the Court's ruling on the ex parte application for a  
26 stay pending appeal. Such a temporary stay is necessary to prevent new LCMs  
27 from entering the State while the Court considers the application for a stay pending  
28 the appeal. Given the urgency, Defendant respectfully requests that the Court issue

1 a temporary stay pending the Court's ruling on the ex parte application by April 2,  
2 2019.

3 I declare under penalty of perjury under the laws of the United States of  
4 America that the foregoing is true and correct.

5 Executed on April 1, 2019, at Los Angeles, California.

6  
7 /s/ John D. Echeverria

8 John D. Echeverria  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## **EXHIBIT 1**

[Sign Up](#)

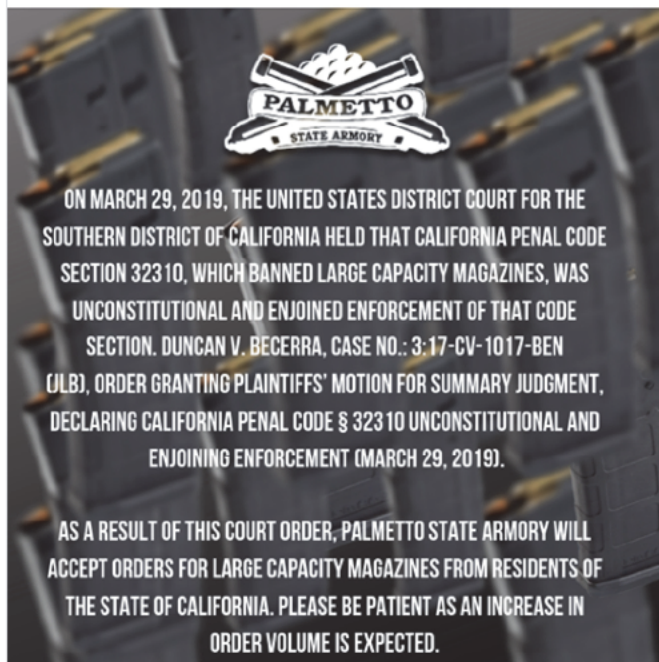
Email or Phone

Password

[Log In](#)[Forgot account?](#)**Palmetto State Armory**

March 30 at 3:41 PM

We are getting prepared to send a whole lot of freedom to our friends in California. #ShallNotBeInfringed #2A



8.6K

1 3K Comments 4.6K Shares

[Share](#)**Related Pages****Aero Precision**

Outdoor &amp; Sporting Goods Company

**BLACKHAWK**

Sporting Goods Store

**AIM**

Retail Company

**Magpul Industries Corp.**

Commercial &amp; Industrial Equipment Supplier

**Brownells, Inc.**

Outdoor Equipment Store

**Spike's Tactical**

Product/Service

**Bravo Company USA**

Geographical Place

**AR15.Com**

Website

**Primary Arms, LLC**

Gun Store

**Hegshot87**

Public Figure

**Warr Dogz**

Gun Store

**704 Tactical**


Public Figure

**Pages Liked by This Page****Umbrella Corporation Weapons****Clint Upchurch****Mrgunsngear****See more of Palmetto State Armory on Facebook**[Log In](#)

or

[Create New Account](#)


Recent Post by Page



**Palmetto State Armory**  
March 30 at 3:41 PM

We are getting prepared to send a whole lot of freedom to our friends in California. #ShallNotBeInfringed #2A


8.6K    1.3K Comments    4.6K Shares



**Palmetto State Armory**  
March 29 at 1:37 PM

Fresh batch of Palmetto State Armory AK-Vs set to hit the website VE... [See More](#)

1.4K    349 Comments    88 Shares



**Palmetto State Armory**  
March 28 at 11:16 AM

Happy to report that we just passed the 1,000 round mark and have ha... [See More](#)

605    122 Comments    18 Shares

English (US) [Español](#) ☐

[Português \(Brasil\)](#) [Français \(France\)](#)

[Deutsch](#)

[Privacy](#) [Terms](#) [Advertising](#) [Ad Choices](#)  
[Cookies](#) [More](#)  
 Facebook © 2019

See more of Palmetto State Armory on Facebook

Log In

or

Create New Account