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

22 **v.**

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

Defendants.

17-cv-1017-BEN-JLB

RESPONSE TO PLAINTIFFS'
OPPOSITION TO DEFENDANT'S
EX PARTE APPLICATION FOR
TEMPORARY STAY OF THE
JUDGMENT

Date:
Time:
Judge: Hon. Roger T. Benitez
Courtroom: 5A
Action Filed: May 17, 2017

1 Plaintiffs' Opposition to Defendant's Ex Parte Application for Temporary
 2 Stay of the Judgment acknowledges that "countless" California residents have
 3 ordered new LCMs following this Court's Judgment. (Opp'n at 2:5.)¹ Plaintiffs
 4 "understand the State's concerns." (Opp'n at 2:4.) Nevertheless, they oppose
 5 Defendant's reasonable and limited request for a temporary stay while the Court
 6 considers the ex parte application for a stay of the Judgment pending appeal out of
 7 concern that individuals who have ordered new LCMs would be in violation of
 8 California Penal Code section 32310(a). Plaintiffs offer no evidence that there are
 9 any Californians who have either ordered or are currently in possession of LCMs in
 10 reliance on the Court's ruling. And even if such residents exist, that does not
 11 militate against a stay. To the contrary, an immediate stay is necessary to prevent
 12 further irreparable harm to the State and to avoid potential harm to individuals
 13 acting in reliance on the Judgment before the request for a full stay is considered.

14 Plaintiffs urge that the request be denied "unless the Court can unequivocally
 15 protect those individuals in an order granting the State's temporary stay request."
 16 (Opp'n at 2:9-10.) Nothing prevents this Court from fashioning appropriate interim
 17 relief for persons who take possession of LCMs purchased between the issuance of
 18 the Judgment and an order staying the effect of that Judgment, if there are any such
 19 individuals. And a temporary stay will limit the number of people who might find
 20 themselves in that situation. For that reason, a temporary stay, issued immediately,
 21 is an appropriate remedy to protect both the State and law-abiding citizens acting in
 22 reliance on the Judgment.

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 26 ¹ See also Don Thompson, *Delay Sought on Ruling Allowing High-Capacity*
 27 *Ammo Magazines*, A.P., April 2, 2019, available at
 28 <https://www.apnews.com/a78f4ba269ac4cb191c2e92b163891c7> (quoting
 Plaintiffs' counsel as stating "There's dealers advertising them now and there are
 chat rooms where people are discussing buying them . . .").

1 Dated: April 2, 2019

Respectfully Submitted,

2 XAVIER BECERRA
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6 /s/ John D. Echeverria

7 JOHN D. ECHEVERRIA
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9 *Attorneys for Defendant Attorney*
General Xavier Becerra
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CERTIFICATE OF SERVICE

Case Name: **Virginia Duncan, et al. v.
Xavier Becerra**

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

I hereby certify that on April 2, 2019, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

RESPONSE TO PLAINTIFFS' OPPOSITION TO DEFENDANT'S EX PARTE APPLICATION FOR TEMPORARY STAY OF THE JUDGMENT

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

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 2, 2019, at Los Angeles, California.

John D. Echeverria
Declarant

/s/ John D. Echeverria
Signature