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

STEVEN RUPP, et al.

Plaintiffs,

v.

XAVIER BECERRA, in his official  
capacity as Attorney General of the  
State of California

Defendants.

CASE NO. 8:17-cv-00746-JLS-JDE

**NOTICE OF MOTION AND MOTION  
FO LEAVE TO PARTICIPATE AS  
*AMICUS CURIAE***

Hon. Josephine L. Staton

Date: May 31, 2019  
Time: 10:30 a.m.  
Place: 10a

**TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF  
RECORD:**

PLEASE TAKE NOTICE that on May 31, 2019, at 10:30 a.m. in Courtroom 10a of the above-titled court, located at 411 W. Fourth St. Santa Ana, California 92701, movant Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) will, and hereby does, move for an order permitting it to participate as *amicus curiae* in the Motion for Summary Judgment, which is currently scheduled to be heard at the above-reference date, time, and location.

This motion is made on the grounds that the Court has inherent authority to allow the participation of an *amicus curiae*. Giffords Law Center’s participation as *amicus curiae* would be helpful and desirable as it would facilitate a more complete understanding of the issues before the Court. This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities and all attachments thereto, all papers and pleadings on file in this action, and upon such further evidence and argument as may be presented to the Court in connection with the motion.

Dated: April 1, 2018

GIBSON, DUNN & CRUTCHER

/s/ Scott A. Edelman

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**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR LEAVE TO  
PARTICIPATE AS *AMICUS CURIAE***

Hon. Josephine L. Staton

Date: May 31, 2019  
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## **I. INTRODUCTION**

Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”) respectfully moves for leave to participate as an *amicus curiae* in support of Defendant Attorney General Xavier Becerra’s Defendant’s Motion For Summary Judgment. Giffords Law Center obtained Plaintiff’s consent to file this Motion and Defendant does not object to the motion.

Giffords Law Center is a national, nonprofit organization dedicated to reducing gun violence. The organization was founded in 1993 after a gun massacre at a San Francisco law firm and was renamed Giffords Law Center to Prevent Gun Violence in October 2017 after joining forces with the gun safety organization founded by former Congresswoman Gabrielle Giffords. As a national, nonprofit organization dedicated to reducing firearm violence, Giffords Law Center has for over two decades provided legal expertise in support of effective gun safety laws and other violence prevention policies. Giffords Law Center has provided informed analysis of social science research and constitutional law as an *amicus* in many firearm-related cases, including *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010), *Fyock v. City of Sunnyvale*, 779 F.3d 991 (9th Cir. 2015), *Peruta v. San Diego*, 824

F.3d 919 (9th Cir. 2016) (en banc), *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017) (en banc).<sup>1</sup>

## **II. ARGUMENT**

A “district court has broad discretion to appoint *amici curiae*.” *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). The “classic role” of *amici curiae* is “assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court’s attention to law that escaped consideration.” *Miller-Wohl Co., Inc. v. Commissioner of Labor and Industry*, 694 F.2d 203, 204 (9th Cir. 1982). “District courts frequently welcome *amicus* briefs from nonparties concerning legal issues that have potential ramifications beyond the parties directly involved or if the *amicus* has ‘unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.’” *Safari Club Intern. v. Harris*, No. 2:14-cv-01856-GEB-AC, 2015 WL 1255491 at \*1 (E.D. Cal. Jan. 14, 2015), citing *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F.Supp.2d

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<sup>1</sup> Several courts have cited research and information from Giffords Law Center’s *amicus* briefs in Second Amendment rulings. *E.g.*, *Ass’n of N.J. Rifle & Pistol Clubs v. AG N.J.*, 910 F.3d 106, 121-22 (3d Cir. 2018); *Md. Shall Issue v. Hogan*, No. JKB-18-1700, 2018 U.S. Dist. LEXIS 195615, at \*1-\*3 (D. Md. Nov. 15, 2018); *Stimmel v. Sessions*, 879 F.3d 198, 208 (6th Cir. 2018); *Peruta v. Cty. of San Diego*, 824 F.3d 919, 943 (9th Cir. 2016) (en banc) (Graber, J., concurring). Giffords Law Center filed the latter two briefs under its former name, the Law Center to Prevent Gun Violence.

1061, 1067 (N.D. Cal. 2005). “The touchstone is whether the *amicus* is ‘helpful,’ and there is no requirement ‘that amici must be totally disinterested.’” *California v. U.S. Dept. of Labor*, No. 2:13-cv-02069-KJM-DAD, 2014 WL 12691095 at \*1 (E.D. Cal. Jan. 14, 2014), citing *Hoptowit*, 682 F.2d at 1260. This Court therefore has authority to permit Giffords Law Center to participate as *amicus curiae*.

Giffords Law Center brings unique information and perspective to the issues implicated in this constitutional challenge, and should be granted leave to submit a brief on those important issues. *See Missouri v. Harris*, No. 2:14-cv-00341-KJM-KJN, 2014 WL 2987284 at \*2 (E.D. Cal. Jul. 1, 2014) (“An *amicus* brief should normally be allowed when, among other considerations, the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.”) (internal citation omitted). Giffords Law Center’s *amicus* submission will offer, among other things, context for the California firearms law at issue, historical and factual information about the relevant semiautomatic rifles, additional information regarding the public safety interests that California’s restrictions on these semiautomatic rifles advance, and an analysis of whether the use of these semiautomatic rifles is protected by the Second Amendment. A number of courts, including federal district courts, have relied on similar information provided in Giffords Law Center’s *amicus* briefs when deciding other cases involving firearms. *See, e.g., Peruta*, 824 F.3d at 943 (citing

*amicus* brief filed under Giffords Law Center’s former name for examples of “law-abiding” weapons owners who “place the public safety in jeopardy”); *Mishaga v. Smith*, 136 F.Supp.3d 981, 996 (C.D. Ill. 2015); *see also supra* note 1.

In addition, the Court should grant leave for Giffords Law Center to submit an *amicus* brief because this case implicates important public interests, including public safety interests, with ramifications beyond the parties directly involved.

The Roberti-Roos Assault Weapons Control Act was duly enacted by the California Legislature to address serious public safety concerns that are relevant to every Californian. Furthermore, the resolution of Defendant’s Motion will involve the application of Second Amendment constitutional principles that could affect existing or future efforts, in California or elsewhere, to reduce gun violence through the enactment of firearm safety legislation. *See California v. U.S. Dept. of Labor*, 2014 WL 12691095 at \*1 (leave to file *amicus* brief granted where case implicated constitutional issues and therefore had “potential ramifications beyond the parties directly involved”).

### **III. CONCLUSION**

For the foregoing reasons, Giffords Law Center respectfully requests that the Court grant leave for it to participate as *amicus curiae* and submit a brief in connection with Defendant’s Motion for Summary Judgment.

Dated: April 1, 2019

Respectfully submitted,

/s/ Scott A. Edelman

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