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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13
14 **STEVEN RUPP, et al.,**

15 Plaintiffs,

16 v.

17 **XAVIER BECERRA, in his official**
18 **capacity as Attorney General of the**
State of California, et al.,

19 Defendants.
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8:17-cv-00746-JLS-JDE

**DEFENDANT'S STATEMENT OF
UNCONTROVERTED FACTS IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

STATEMENT OF UNDISPUTED FACTS

	Uncontroverted Facts	Supporting Evidence
1	2 In 1957, the U.S. Army requested Armalite, a	Def. Exh. 1 at 29, ¶ 68.
2	3 small arms manufacturer, to produce a	
3	4 lightweight, high-velocity rifle that could operate	
4	5 in both semi-automatic and full-automatic	
5	6 modes, with firepower capable “of penetrating a	
6	7 steel helmet or standard body armor at 500	
7	8 yards.”	
8	9 According to one of the designers of the AR-15,	Def. Exh. 1 at 30, ¶ 73.
9	10 the rifle was engineered to generate “maximum	
10	11 wound effect.”	
11	12 After field testing in combat operations in	Def. Exh. 1 at 29, ¶ 68.
12	13 Vietnam, the Advanced Research Projects	
13	14 Agency (“ARPA”) noted that the “lethality of the	
14	15 AR-15 and its reliability record were particularly	
15	16 impressive.”	
16	17 The ARPA found that all casualties inflicted by	Def. Exh. 1 at 29-30,
17	18 the AR-15 in combat were fatal, including hits to	¶¶ 68-69.
18	19 only extremities.	
19	20 In a 1989 report, the Bureau of Alcohol Tobacco	Def. Exh. 22 at 1048-49.
20	21 & Firearms described features such as folding	
21	22 and telescoping stocks, pistol grips, and flash	
22	23 suppressors as “military features and	
23	24 characteristics . . . carried over to the	
24	25 semiautomatic versions of the original military	
25	26 rifle.”	
26	27 In a 1998 study, the Bureau of Alcohol Tobacco	Def. Exh. 21 at 992.
27	28 & Firearms examined semiautomatic assault	

1		rifles with what it described as “distinctive	
2		military configuration,” which incorporated	
3		physical features such as the ability to accept a	
4		detachable magazine, folding/telescoping stocks,	
5		separate pistol grips, and flash suppressors.	
6	7	The AR-15 is the civilian version of the	Def. Exh. 2 at 121-22, ¶
7		military’s M-16.	15; Def. Exh. 16 at
8			818:3-13.
9	8	Rifles restricted by the AWCA appear like their	Def. Exh. 16 at 787:6-10,
10		military counterparts and possess many of the	790:10-22.
11		same features.	
12	9	Rifles restricted by the AWCA are capable of	Def. Exh. 2 at 128, ¶ 34;
13		firing the same centerfire rifle rounds as U.S.	<i>see</i> Def. Exh. 10 at
14		military rifles and “could have the same high	320:3-14.
15		capacity for firepower as the military weapons.”	
16		Civilian assault rifles commonly use ammunition	
17		rounds created mainly for military use. The .223	
18		is the civilian version of 5x56 military round.	
19		The .308 is the civilian version of the 7.62x51	
20		NATO round.	
21	10	The difference between the M-16 and the AR-15	Def. Exh. 45 at 1544;
22		is that the M-16 is a select-fire rifle that allows	Def. Exh. 16 at 818:3-13.
23		the shooter to fire in either automatic or	
24		semiautomatic mode, while the AR-15 fires only	
25		in semiautomatic mode.	
26	11	Semiautomatic weapons can be fired at rates of	Def. Exh. 27 at 1090.
27		300 to 500 rounds per minute. According to a	
28			

1		Congressional report, this makes them “virtually	
2		indistinguishable in practical effect from	
3		machineguns.”	
4	12	A test by the San Jose police showed that a 30-	Def. Exh. 20 at 934.
5		round magazine empties in slightly less than two	
6		seconds on automatic, while the same magazine	
7		empties in just five seconds on semiautomatic.	
8	13	A semiautomatic weapon can be converted to	Def. Exh. 27 at 1090;
9		automatic fire by installing certain parts, such as	Def. Exh. 3 at 140, ¶ 20;
10		bump stocks or multiburst trigger activators.	Def. Exh. 15 at 642:1-10.
11	14	According to a 1989 ATF Report, large-capacity	Def. Exh. 22 at 1048.
12		magazines “are indicative of military firearms,”	
13		and the fact “[t]hat a firearm is designed and sold	
14		with a large capacity magazine, e.g., 20-30	
15		rounds, is a factor to be considered in	
16		determining whether a firearm is a semiautomatic	
17		assault rifle.”	
18	15	AR-platform rifles capable of accepting	Def. Exh. 10 at
19		detachable magazines take 3 to 5 seconds less to	331:7-333:7.
20		reload than the same rifle with a fixed magazine.	
21	16	A protruding pistol grip helps to stabilize the rifle	Def. Exh. 3 at 137-38,
22		during rapid fire and enables a shooter to	¶ 9; Def. Exh. 22 at 1048;
23		maintain accuracy.	Def. Exh. 11 at 349:11-
24			22; Def. Exh. 16 at
25			844:6-15; Def. Exh. 19 at
26			913.
27			
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17	An assault rifle with a pistol grip would allow a shooter to shoot more accurately and reload faster.	Def. Exh. 3 at 137-38, ¶ 9.
18	According to a 1989 ATF Report, a pistol grip beneath the action of the rifle can also “be an aid in one-handed firing of the weapon in a combat situation.”	Def. Exh. 22 at 1048.
19	A forward pistol grip on a rifle was a feature of early machineguns; it can help insulate the non-trigger hand from heat during rapid fire.	Def. Exh. 16 at 777:5-11; <i>see id.</i> at 774:7-12.
20	According to a 1989 ATF Report, the “predominant advantage” of a folding or telescoping stock “is for military purposes, and it is not normally found on the traditional sporting rifle.”	Def. Exh. 22 at 1048.
21	A folding or telescoping stock renders the rifle more concealable as would a semiautomatic centerfire rifle that is under 30 inches in length. A semiautomatic centerfire rifle under 30 inches in length is more concealable than the same rifle that is 30 inches or longer.	Def. Exh. 2 at 124, ¶ 21 & 126, ¶ 27.
22	A flash suppressor is a standard feature of the M-16.	Def. Exh. 16 at 773:1-11.
23	Flash suppressors can be affixed to the muzzle of a rifle to reduce the flash emitted upon firing, which can aid a shooter in low-light conditions to maintain accurate fire.	Def. Exh. 2 at 125, ¶ 22; Def. Exh. 3 at 138, ¶ 11; Def. Exh. 16 at 855:3-14; Def. Exh. 22 at 1049.

24	Flash suppressors can help conceal a shooter's position, especially at night.	Def. Exh. 22 at 1049; Def. Exh. 16 at 836:7-15.
25	Manufacturers of assault rifles have marketed the rifles to civilians based on their military features and military design.	Def. Exh. 32 at 1277; <i>see, e.g.</i> , Def. Exhs. 24-25.
26	As of November 2, 2018, there were up to approximately 184,552 assault weapons registered with the Department of Justice, of which approximately 166,640 are assault rifles.	Def. Exh. 18 at 895.
27	There have been up to approximately 194,065 assault weapons that have ever been registered with the Department of Justice, of which up to approximately 175,180 were assault rifles (according to best-available approximately as of November 7, 2018). Many one-time registered weapons may no longer be registered for various reasons including death of the registrant or the registrant became prohibited from possessing the weapon. There are approximately 30.5 million adults in California as of 2018.	Def. Exh. 18 at 895; Def. Exh. 39 at 1511.
29	Gun ownership is becoming more concentrated.	Def. Exh. 15 at 658:12-22; <i>see</i> Def. Exh. 1 at 6-10; Def. Exh. 7 at 252, ¶ 18.
30	66 percent of AR- or AK-rifles owners own two or more such rifles.	Def. Exh. 42 at 1532

31	Over 30 percent of AR- or AK-platform rifle owners own three or more such rifles, and over one quarter of owners report having four or more such rifles.	Def. Exh. 42 at 1531, 1535.
32	The number of fatalities that occur in a mass shooting is correlated with the use of an assault weapon.	Def. Exh. 15 at 728:20-24; Def. Exh. 6 at 232; Def. Exh. 23 at 1067; Def. Exh. 1 at 45, ¶ 109..
33	Rifles will penetrate soft body armor designed to stop common handgun rounds.	Def. Exh. 14 at 123:19-124:1; Def. Exh. 11 at 370:5-18..
34	Between January 1, 1998 and December 31, 2001, at least 41 of the 211 law enforcement officers slain in the line of duty were killed with assault weapons.	Def. Exh. 31 at 1249.
35	When a bullet enters a victim's body, it would create a permanent cavity or a permanent cavity and a temporary cavity. A permanent cavity "is the tissue that is actually crushed or destroyed by the projectile's interaction with it." A temporary cavity is caused by tissue being stretched away from the permanent cavity. Handguns do not typically cause temporary cavity damage.	Def. Exh. 14 at 508:15-19, 511:16-24; Def. Exh. 38 at 1505, 1507; Def. Exh. 44 at 1541; Def. Exh. 14 at 511:16-24.
36	After a rifle round enters the body, it would turn over vertically and exit the body base forward. It would create the greatest permanent wound	Def. Exh. 14 at 504:5-505:5.

1		cavity at the point of the maximum vertical	
2		rotation.	
3	37	The temporary cavity, if one is created, by a	Def. Exh. 14 at 514:4-23;
4		handgun wound is typically not as injurious to	Def. Exh. 44 at 1541.
5		the tissue as the temporary cavity typically from	
6		a rifle wound, and can be more easily treated by a	
7		physician.	
8	38	During the period in which the federal assault	Def. Exh. 15 at 662:14-
9		weapons ban was in effect, the use of banned	663:1.
10		assault weapons in crimes was reduced.	
11	39	The AWCA is broader than the federal assault	Def. Exh. 15 at 610:4-11.
12		weapons ban because, unlike the federal ban's	
13		two-feature test, the AWCA restricts centerfire	
14		rifles capable of accepting a detachable magazine	
15		if it has one of the listed features.	

Dated: March 25, 2019

Respectfully submitted,

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