

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 7. Mediation Questionnaire**

*Instructions for this form: <http://www.ca9.uscourts.gov/forms/form07instructions.pdf>*

**9th Cir. Case Number(s)** 19-55376

**Case Name** Duncan, et al. v. Becerra

**Counsel submitting this form** Anna M. Barvir  
Michel & Associates, P.C.

**Represented party/ parties** Appellees Virginia Duncan, et al.

*Briefly describe the dispute that gave rise to this lawsuit.*

Plaintiffs challenged California Penal Code Section 32310, the State's ban on the manufacture, sale, import, transfer, and possession of firearm magazines capable of holding over 10 rounds of ammunition on the grounds that it violates several provisions of the U.S. Constitution.

Plaintiffs are individuals who lawfully own and possess magazines over 10 rounds or would immediately acquire such magazines, but for the enforcement of section 32310, and a self-defense civil rights organization. Plaintiffs contend the law violates their rights under the Second Amendment, the Takings Clause, and the Due Process Clause.

Defendant dispute that contention.

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*Briefly describe the result below and the main issues on appeal.*

The district court granted Plaintiffs' Motion for Summary Judgment, enjoining all parts of California Penal Code section 32310. The Court held that magazines over ten rounds are protected by the Second Amendment, and that the State had not met its burden to justify its ban on the manufacture, importation, sale, and possession of such magazines under any standard of review. The District Court also held that California's ban on possession of magazines over ten rounds violates the Takings Clause.

This Court is asked to decide whether Penal Code section 32310's flat ban on magazines over ten rounds violates the Second Amendment. The Court is also asked to decide whether California's ban on possessing magazines over ten rounds violates the Takings Clause.

*Describe any proceedings remaining below or any related proceedings in other tribunals.*

Effective April 5, 2019, the District Court stayed enforcement of its injunction halting enforcement of section 32310's ban on aquisition of magazines over ten rounds during the pendency of this appeal.

Different plaintiffs filed a separate challenge to section 32310 in the Eastern District of California. That case, Wiese v. Becerra, no. 17-cv-00903-WBS-KJN, is ongoing in the district court.

**Signature**

**Date**

*(use "s/[typed name]" to sign electronically-filed documents)*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2019, an electronic PDF of Form 7. Mediation Questionnaire was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: April 10, 2019

**MICHEL & ASSOCIATES, P.C.**

s/ Anna M. Barvir

Anna M. Barvir

*Counsel for Plaintiffs-Appellants*